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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 441.

BRIDGE ACROSS RUSSELL FORK OF BIG SANDY RIVER, KY.

MARCH 25, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. SIMS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 20286.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 20286) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River, having considered the same, report thereon with amendment and as so amended recommend that it pass.

The bill as amended has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

Amend the bill as follows:

Page 1, line 3, strike out the words "it shall be lawful" and insert in lieu thereof the words "the consent of Congress is hereby granted."

Page 1, line 4, strike out the word "and."

Page 1, line 4, after the word "maintain" insert the words "and operate."

Page 1, line 4, strike out the words "wagon and foot."

Page 1, lines 5, 6, 7, and 8, strike out the words "and is hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Russell Fork of Big Sandy River."

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, March 1, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (H. R. 20286, 62d Cong., 2d sess.) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned, I know of no objection to its favorable consideration by Congress. It is deemed proper to add, however, that the department has

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recently held that the navigable portion of the stream to be bridged lies wholly within the State of Kentucky, and that, in pursuance of the provisions of section 9 of the river and harbor act of March 3, 1899, a bridge may be built thereover under authority of the laws of that State. Following that decision, the department, under date of the 27th ultimo, approved plans presented by the county court of Pike County, Ky., for the bridge which this bill is apparently designed to authorize. It would seem, therefore, that while there is no objection to the bill, its enactment is not essential.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT,
March 2, 1912.

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 442.

DAM ACROSS ROCK RIVER, ILL.

MARCH 25, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. SABATH, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 20190.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 20190) to extend the time for the construction of a dam across Rock River, Ill., having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, February 20, 1912.

Respectfully returned to the Secretary of War.

The object of the accompanying bill (H. R. 20190, 62d Cong., 2d sess.) is to extend the time for commencing and completing the construction of a dam across Rock River, near Byron, Ill., originally authorized by an act of Congress approved February 18, 1911.

The original act amply provides for the protection of navigation interests, and I know of no objection to its life being extended as proposed by the bill so far as those interests are concerned.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT,
February 21, 1912.

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 443.

LOAN OF CERTAIN FIELDPIECES TO STATE OF NEW YORK.

MARCH 25, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. EVANS, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 21218.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 21218) to loan to the State of New York the brass fieldpieces and one brass howitzer captured by Gen. Burgoyne at the Battle of Saratoga, having considered the same, report thereon with a recommendation that it do pass, with an amendment, as follows:

Strike out the word "by" in the fifth line and insert in lieu thereof the word "from."

It appears from the evidence produced that the guns in question were captured at the surrender of Gen. Burgoyne after the Battle of Saratoga and that therefore the battlefield of Saratoga is the most suitable place for them. The bill has been referred to the War Department, which has reported to the committee that said guns are on hand at the Watervliet Arsenal at Watervliet, in New York State, together with recommendations which have been incorporated in the present bill, which replaces a former bill, No. 9333.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 444.

MEDAWAKANTON AND WAHPAKOOTA (SIOUX) INDIANS.

MARCH 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STEPHENS of Nebraska, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 21887.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 21887) conferring jurisdiction on the Court of Claims to determine the amount of unpaid annuities that would be due the Medawakanton and Wahpakoota Bands of Sioux Indians as if the act of forfeiture of 1863 had not been passed, after deducting therefrom all payments to said bands, or to any of the members thereof that are properly chargeable against their annuities, beg to report that after giving careful consideration of the whole matter they report back an amendment to strike out all after the enacting clause and substitute the following:

That jurisdiction be, and hereby is, conferred upon the Court of Claims to hear, determine, and render final judgment for any balance that may be found due the Medawakanton and Wahpakoota Bands of Sioux Indians, otherwise known as Santee Sioux Indians, with right of appeal as in other cases for any annuities that may be ascertained to be due to the said bands of Indians under and by virtue of the treaties between said bands and the United States, dated September twenty-ninth, eighteen hundred and thirty-seven (Seventh Statutes at Large, page five hundred and thirty-eight), and August fifth, eighteen hundred and fifty-one (Tenth Statutes at Large, page nine hundred and fifty-four), as if the act of forfeiture of the annuities of said bands approved February sixteenth, eighteen hundred and sixty-three, had not been passed: *Provided*, That the court in rendering judgment shall ascertain and include therein the amount of accrued annuities under the treaty of September twenty-ninth, eighteen hundred and thirty-seven, up to the date of rendition of judgment, and shall determine and include the present value of the same, not including interest, and the capital sum of said annuity, which shall be in lieu of said perpetual annuity granted in said treaty; and to ascertain and set off against any amount found due under said treaties all moneys paid to said Indians or expended for their benefit by the Government of the United States since the treaties were abrogated by the act of eighteen hundred and sixty-three: *Provided*, That the treaty of eighteen hundred and sixty-eight shall not be a bar to recovery, but all equities and benefits received thereunder by the Santee Sioux Indians may, in the discretion of the court, be taken into consideration in the determination of the amount of recovery. Upon the rendition of such ujdgment and in conformity therewith the Secretary of the Interior is hereby directed

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to ascertain and determine which of said Indians now living took part in said outbreak, and to prepare a roll of the persons entitled to share in said judgment by placing thereon the names of all living members of said bands residing in the United States at the time of the passage of this act, excluding therefrom only the names of those found to have personally participated in the outbreak; and he is directed to distribute the proceeds of such judgment, except as hereinafter provided, per capita, to the persons borne on the said roll.

Proceedings shall be commenced by petition verified by one of the attorneys who have been heretofore employed by said bands of Indians to prosecute their claims under this act under a contract which has been approved by the Commissioner of Indian Affairs and the Secretary of the Interior as provided by law upon information and belief as to the existence of the facts stated in said petition, and no other verification shall be necessary. Upon final determination of the cause the Court of Claims shall decree such fees as the court shall find to be reasonable upon a quantum meruit for services performed or to be performed, to be paid to the attorney or attorneys so employed by the said band of Indians and their associates, and the same shall be paid out of the balance found to be due said bands of Indians when an appropriation therefor shall have been made by Congress: *Provided*, That in no case shall the fees decreed by the court amount in the aggregate to more than five per centum of the amount of the judgment recovered, and in no event shall the aggregate amount exceed twenty-five thousand dollars: *Provided further*, That the court shall by its decree distribute such fees equitably between the attorneys who have been employed by said bands of Indians in said cause.

The situation as to the claim of these Indians is briefly as follows:

Prior to 1863 the Sisseton and Wahpeton Bands, known as the Upper Sioux, and the Mdewakanton and Wahpakoota Bands, known as the Lower Sioux, lived on adjoining reservations in the State of Minnesota. Formerly the Upper Sioux and the Lower Sioux, in similar but separate treaties, had ceded all of their lands to the United States, save the small reservations on which they were then living, and in consideration for the cession the Government agreed to pay them certain annuities.

By act of Congress approved February 16, 1863, the annuities of both the Upper and Lower Bands were forfeited in consequence of the Sioux outbreak of 1862.

By act of Congress approved June 21, 1906, Congress restored the forfeited annuities of the Sisseton and Wahpeton Bands (Upper Sioux) and conferred jurisdiction upon the Court of Claims to hear and determine the amount of unpaid annuities that would be due them as if the act of forfeiture had not been passed, and also to ascertain and set off against said amount all sums which had been paid to or for said bands, or to or for any members thereof, since said act of forfeiture was passed, which the court should find were properly chargeable against said annuities, and to render judgment for the balance, if any.

The reports of the committees of Congress in support of the legislation for the relief of the Sisseton and Wahpeton Bands will be found in Senate Report No. 2561, Fifty-ninth Congress, first session, page 80, and House Report No. 2751, Fifty-ninth Congress, first session.

The substitute bill now reported and recommended (H. R. 21887) follows the legislation for the relief of the Sisseton and Wahpeton Bands and should be passed for the same reasons.

The annuities of the Mdewakanton and Wahpakoota Bands (Lower Sioux) arose as follows:

By the first article of a treaty dated September 29, 1837 (Stat. L., 538), the Mdewakantons ceded to the United States all of their lands east of the Mississippi River and all of their islands in said river, the consideration for said cession being $15,000 per annum "forever."

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Of this annuity, 27 installments had been paid at the time of the outbreak.

It is the policy of the Government to discontinue perpetual annuities by capitalizing the same at their present value, which is provided for in this bill.

By the second article of a treaty made at Mendota in the then Territory of Minnesota, on the 5th day of August, 1851 (10 Stat. L., Treaties, p. 56), the Mdewakanton and Wahpakoota Bands of Sioux Indians ceded to the United States "all their lands and all their right, title, and claim to any lands whatever in the Territory of Minnesota or in the State of Iowa."

The consideration for the land ceded by this treaty, adjusted according to terms of the treaty and amendments thereto, was, in annuities, $61,450 for a period of 50 years. Of these annuities, 12 installments had been paid at the time of the outbreak, leaving 38 unpaid.

The devastation of property and the loss of life resulting from this outbreak is familiar history; but the evidence shows that nearly every guilty Indian is dead.

It is established that many individual Indians of these two bands bore arms to suppress the outbreak, while others gave aid and comfort to settlers and prisoners, saving captive women and children, thus incurring the risk incident to arraying themselves against the hostile Indians.

The question arises: Were these Indians who participated in the outbreak guilty of treason or an act of disloyalty to the United States Government, or were they guilty of committing a crime against society as individuals? If they are to be considered as committing an act of treason or disloyalty, then it would seem the Government should deal with them as it dealt with the disloyal members of the Five Civilized Tribes.

Congress, by act approved July 5, 1862, provided for forfeiting the annuities of any Indians, including the Cherokees and other Indians composing the Five Civilized Tribes, who joined the southern confederacy and took up arms against the Union. After the war the Government made new treaties with all the Indians of the Five Civilized Tribes, restoring every dollar of the annuities to loyal and disloyal alike; and later Congress, in one or more cases, went even further and paid to these Indians an additional consideration for their lands ceded, being the difference between 31 cents an acre, the amount provided to be paid them by the treaty, and $1.25 an acre, the statutory price. So if these Indians who participated in the outbreak were guilty of an act of disloyalty, then why should not their annuities be restored, as in the case of the Five Civilized Tribes? Besides, these Indians are to-day citizens, so it would seem that the spirit of the Constitution, if not the letter thereof (Art. III, sec. 2), should protect them against the act of forfeiture beyond the lives of persons "attainted." That forfeitures are not favored is fundamental. This Government was carrying out this basic governmental policy when it paid the heirs of Gen. Robert E. Lee for the Arlington estate.

If these Indians who participated in the outbreak were not guilty of disloyalty or treason, then they were guilty as individuals of murder. For this crime the guilty individuals who were not killed by Gen. Sibley's troops in quelling the outbreak were arrested and

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tried for their crime and convicted and part of them hanged and the remainder imprisoned. The guilty Indians have nearly all paid the penalty of their crimes. If there are any still living, the Government has established or can establish their guilt. At any rate, the burden should be on the Government to show who are guilty and still living, if there be any.

The bill provides that the Department of the Interior shall make up a roll of those who are now living and residing in the United States who are entitled to share in these annuities, leaving off the names of any Indians who took part in the outbreak.

The sweeping act of forfeiture passed by Congress soon after the outbreak has deprived not only the friendly Indians who survived the difficulties of that period of the moneys due for their land during the remainder of their lives, but has visited the sins of the few hostile Indians upon helpless women and upon unborn children. If the Government should adhere to this act of confiscation, it would be the only instance of the kind in our history. Therefore, it seems to your committee that the ends of justice would be accomplished by the passage of the proposed bill.

The bill provides that payment of the amount found to be due by the court shall be made per capita to those Indians now living, except those whose guilt can be shown.

The Department of the Interior has, however, always contended that these Indians have forfeited their rights to the restoration of these annuities by becoming parties to the treaty of April 29, 1868, and further contends that if they did not surrender and forfeit their claims or rights by the terms of such agreement, that then they should be charged up with all payments in money or clothing, provisions, etc., made under that treaty.

Your committee, after a careful investigation of this treaty and the conditions under which and the purpose for which it was made, can not concur in the view taken by the department. The department cites article 10 of said treaty, which reads as follows:

> In lieu of all sums of money or other annuities provided to be paid to the Indians herein named, under any treaty or treaties heretofore made, the United States agrees to deliver, etc.—

naming the clothing, money, supplies, and provisions which the Government agreed to furnish the Indians.

The department also points to article 17, which reads as follows:

> It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further.

Your committee can not understand how the provisions of these two articles can be held to be an abrogation of the rights of the Indians to annuities which were at that time forfeited, and therefore can not have been in the minds of the parties. Besides, a reading of the whole treaty shows that the Government sought the Indians to make this treaty for a governmental purpose. The things that the Indians were to do are expressly stated, and stated to be done in consideration for payments to be annually made.

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The facts about that treaty are briefly as follows:

The Indians occupying the territory north of the proposed line of the Union Pacific Railway and on the western frontier had been rounded up by the Army and at Fort Laramie; these bands being the Brule, Ogallala, Minicongou, Yanktonai, Unkpapa, Blackfeet, Cut-head, Two Kettles' Band, Sioux, and the Arapahos, were gathered into meet Lieut. Gen. William T. Sherman, Gen. William S. Harney, Gen. Alfred H. Terry, Gen. C. C. Augur, of the United States Army, and four civilian commissioners appointed by the President. The council was dominated by the Army.

Nearly all of these various bands, parties to the treaty, except the Santee Sioux of Nebraska, were more or less hostile. The seven Santees who signed the treaty were a part of the small band of Santee Sioux Indians which had been gathered up and moved by the Government to Niobrara, Nebr., after the release of the remnant of the Indians that had been confined at Davenport, Iowa.

These Indians were wholly indigent, broken-spirited, and without hope in the world. They were completely subjugated and were wholly under the care and the influence of the United States at Niobrara. If they had signed this treaty in the understanding that they were surrendering their rights to the restoration to their children of the forfeited annuities, they would have so signed without the shadow of authority. They did not represent the great mass of Santee Sioux Indians who still remained in Minnesota and Dakota. They were in that deplorable condition in which individuals, and sometimes weak nations, execute any agreement that is presented to them by the power holding them under subjugation. They were perfectly willing, unquestionably, to accede to the terms of peace proposed by the United States, and doubtless they extended whatever influence they possessed, as heartily as was in their power, to bring to a peaceful disposition the more hostile part of the Sioux Indians, such as Two Kettles' Band, the Unkpapas, and others of a hostile disposition who had been depredating upon the line of the proposed Union Pacific Railway and upon the line of travel over the "California trail" up the La Platte River.

Affidavits have been made by two of those who claim that they signed the treaty to the effect that no council of their band was held to authorize them or anyone else to enter into a treaty with the United States.

In the first paragraph of the indicated treaty of 1868 the parties agreed that war should forever cease, and recites as follows: "The Government of the United States desires peace, and its honor is hereby pledged to keep it;" "the Indians desire peace, and they now pledge their honor to maintain it;" so that peace was the object of the signatory parties.

Article 11 of that treaty sets out seven specific services which the Indians were required to render the Government continuously. Briefly stated, they were that the Indians should withdraw "all opposition to the construction of the railroads now being built on the plains"; that they not only would not attack any white persons or wagon trains or coaches, or capture any cattle or mules belonging to the United States or to white people, but that they should protect the white people and their property and the property of the United States in every way within their power; they also agreed to withdraw all

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opposition to the military posts or roads established and to be established by the Government in the northwest, and further specifically agreed to help the Government to capture and punish any Indians who attacked white people or Government agents or committed depredations on their property, and to police the frontier.

In short, the Government sought these Indians on the frontier to enter into a treaty for a specific governmental purpose; that is, peace and the protection of the frontier. The Indians agreed to perform this service and the Government agreed to pay them annually certain sums of money, food, clothing, etc., in consideration for their services. Any time that the Indians stopped performing these services payments to them would stop. Therefore the payment made to these ten bands of Indians was the annual recognition of the fact that the Indians had carried out their part of the agreement in good faith.

It is evident, therefore, that the agreement of 1868 was sought by the Government in the interest of civilization and for purposes of the Government, and that the Indians performed the services required, and that the payments made to them were the consideration for such services as stated in the treaty.

This shows clearly that the provisions of articles 10 and 17 of that treaty, which provided that the payments to be made under it should be in lieu of all payments heretofore granted to these Indians under treaty stipulation, can not and should not be a bar to the recovery by these Indians of their annuities which were forfeited in 1863. It is clear that the contracting parties, if the treaty, as between the Government and this band of Sioux Indians, can be called a contract, did not have in mind at the time the forfeited annuities of the Sioux the same having been abrogated by act of Congress in 1863.

In this connection it should be noted that the Government, in making certain payments to the small band of Santee Sioux at Niobrara, Nebr., under the terms of the agreement of 1868, did not make any payments to the larger part of these Santee Sioux who were in Minnesota, the Dakotas, and Montana, and were not upon the reservation at Niobrara.

The Senate Committee on Indian Affairs has given this matter thorough consideration and has always taken the same position that we take.

Attention is invited to Senate Report No. 5689 (59th Cong., 2d sess., pp. 76–79), setting forth the reasons of the Senate committee why no payment made under the treaty of 1868 should be charged against the forfeited annuities which it is now proposed to restore.

Attention is also called to Senate Report No. 2561 (59th Cong., 1st sess., p. 80), in which the Senate committee states why the unpaid annuities of all of the Sioux Indians should be restored.

A similar bill to the one we now recommend has passed the other branch of Congress four or five times.

FEBRUARY 2, 1912.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs, House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of January 15, 1912, inclosing, with request for report thereon, a copy of H. R. 17600 (practically the same as 21887), for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians, declared forfeited by the act of February 16, 1863.

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The purpose of this bill is to confer jurisdiction upon the Court of Claims to hear, determine, and render final judgment in the matter of the claim of the Medawakanton and Wahpakoota Sioux Indians for annuities due them under treaty stipulations, which were forfeited by act of Congress approved February 16, 1863 (12 Stat. L., 652), and the bill is, in substance, similar to H. R. 17859, Sixty-first Congress, second session, on which the department made report to the Congress under date of February 28, 1910.

In its said report the department suggested certain amendments to H. R. 17859, and as the bill now under consideration appears to have been prepared in accordance with said suggestions, the department sees no objection to its passage.

For the information of your committee there is inclosed herewith a copy of departmental report of February 23, 1910, above mentioned. The bill (H. R. 17600) is returned herewith.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

MARCH 21, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: The department is in receipt by reference with request for a report thereon of a copy of S. 5241 entitled "A bill for the relief of the Medawakanton and Wahpakoota Bands of Indians, otherwise known as the Santee Sioux Indians, and for other purposes."

This bill confers jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the Medawakanton and Wahpakoota Bands of Sioux Indians, otherwise known as the Santee Sioux Indians, for their interests in certain lands set apart as a reservation for them and other bands of Sioux Indians by the treaty of April 29, 1868 (15 Stat. L., 635), of which they were deprived by the act of March 2, 1889 (25 Stat. L., 888).

By the act of Congress approved February 16, 1863 (12 Stat., 652), all treaty obligations on the part of the Government to the Sioux of Minnesota were abrogated, including all annuities due said Indians under the treaties of 1837 and 1851.

By the act approved March 3, 1863 (12 Stat. L., 819), Congress, recognizing the need and destitute condition of the Indians, authorized the President to set apart a tract of unoccupied lands "outside of the limits of any State, sufficient in extent to enable him to assign to each member of said bands (who are willing to adopt the pursuit of agriculture) 80 acres of good agricultural lands, the same to be well adapted to agricultural purposes."

Under the provisions of this act the Crow Creek Reservation in South Dakota was selected, and during the year 1863 some 1,300 Sioux Indians of the Mississippi were removed thereto. After three years' trial, this reservation having been found not to be a tract of "good agricultural lands, well adapted to agricultural purposes," another tract was selected for them in Nebraska Territory, and was set aside for the Santee Sioux Indians by Executive order of February 27, 1866. The Indians removed to the Santee Reservation were those that had been located at the Crow Creek Reservation, consisting of the old men, women, and children of the Sioux, who surrendered to and were captured by the military in 1863, together with about 75 who had been pardoned by the President and sent there about a year and a half before; the Sioux Indian prisoners, about 200 in number, who had been confined at Davenport, Iowa, for about 3 years; and the Sioux in Minnesota, who were friendly to the United States during the outbreak of 1862 and were then in destitute circumstances in that State.

From the annual report of the Indian agent for the Santee Agency for the year 1866 it appears that the Santee Sioux are composed of Sissetons, Wahpetons, Mdewakantons, and Wahpakootas. The bands which were provided for by the act of March 3, 1863, above mentioned, and the Indians on the reservation in Nebraska have since been known and designated as "Santee Sioux."

By the second article of the treaty of April 29, 1868, supra, to which treaty the Santees were a party, the Sioux relinquished all claims or rights in and to any portion of the United States or Territories except such as were embraced within the limits of the reservation described in that article, and existing reservations on the east bank of the Missouri River, and except certain homestead privileges conferred by the sixth article.

By section 16 of the act of March 2, 1889, supra, "all the title and interest of every name and nature secured therein to the different bands of the Sioux Nation by the said treaty of April 29, 1868," was confirmed to them. The title thus confirmed to these Indians, however, with respect to the lands set apart for them appears to have been

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that of use and occupancy only, as all treaty obligations on the part of the Government to the Sioux of Minnesota had been previously abrogated by the act of Congress approved February 16, 1863, above mentioned.

By section 7 of the act of March 2, 1889, provision was made that each member of the Santee Sioux Tribe of Indians "now occupying a reservation in the State of Nebraska, not having already taken allotments, shall be entitled to allotments upon said reservation in Nebraska." This section also provided that the Santee Sioux should be entitled to all other benefits under the act in the same manner and with the same conditions as if they were residents upon said Sioux Reservation receiving rations at one of the agencies named in the act. Provision was also made in said section that all allotments theretofore made to said Santee Sioux in Nebraska were ratified and confirmed.

By section 17 of the act of 1889 the Santee Sioux, the Flandreau Sioux, and the Ponca Indians were specifically included in the benefits of the Sioux permanent fund provided in sections 7 and 13 of the act.

By section 8 of the act of Congress approved July 13, 1892 (27 Stat. L., 145), provision was made for the payment to the Santee Sioux Indians in the State of Nebraska who had not received allotments the value of such allotments in cash. And by the act approved June 21, 1906 (34 Stat. L., 325–356), authority was granted for the payment to the Santee Sioux in Nebraska of all their share of the principal permanent fund of the Sioux Nation created by the seventeenth section of the act of March 2, 1889.

From the foregoing history of the Santee Sioux Indians it does not appear that they have been deprived of any lands or other benefits to which they were entitled under the treaty of 1868, but on the contrary that they have been dealt with very generously by the Government.

However, as it appears that the said Indians believe that they have a claim against the Government by reason of the provisions of the act of 1889, supra, the department is not inclined to interpose any objection to the submission of the matter to the Court of Claims in order that it may receive final adjudication and settlement.

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Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 445.

INTERPARLIAMENTARY UNION FOR INTERNATIONAL ARBITRATION.

MARCH 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SULZER, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. R. 19239.]

The Committee on Foreign Affairs, having had under consideration H. R. 19239, a bill authorizing an appropriation for the Interparliamentary Union for International Arbitration, reports the same back to the House with the recommendation that it do pass.

This resolution authorizes an appropriation, as the share of the Congress of the United States, for the maintenance of the bureau of the Interparliamentary Union now located at Brussels, Belgium. Twenty different countries are now making annual contributions for this purpose, namely, Great Britain, Germany, Russia, France, Austria, Italy, Spain, Japan, Turkey, Belgium, The Netherlands, Portugal, Hungary, Greece, Denmark, Sweden, Norway, Switzerland, Roumania, and Servia, and each of the parliaments of these nations are contributing in accordance with the size and population of their respective countries. The American Congress, which did not join the Interparliamentary Union until 1904, made the first appropriation for the union two years ago, i. e., in the first session of the Sixty-first Congress, by an amendment to the diplomatic and consular appropriation bill, appropriating $2,500. In last year's bill the same amendment was inserted, but by some inadvertence lost between the two Houses. The adoption of this resolution is recommended to give such an appropriation the authority of law.

In this connection a brief review of the history and objects of the Interparliamentary Union may be interesting to Members. The union is composed of members of the various national parliaments who are in favor of submitting all disputes between nations to arbitration, just as differences between individuals are submitted to courts of justice. It deals with all questions of public international

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law which are concerned with the maintenance of peace, and its practical object is to bring before the various national parliaments questions concerning the amelioration of international relations.

In each parliament of the world so-called groups have been organized with that object in view, and these various national groups now have 2,978 members. The American group in Congress was organized in the spring of 1904 at the instance of Hon. Richard Bartholdt, a Representative from Missouri, and members of the American group have since participated in five different international conferences of the union. These conferences take place annually or biannually, as the case may be, and since the foundation of the union the following have been held: Paris, 1889; London, 1890; Rome, 1891; Berne, 1892; The Hague, 1894; Brussels, 1895; Budapest, 1896; Brussels, 1897; Christiania, 1899; Paris, 1900; Vienna, 1903; St. Louis, 1904; Brussels, 1905; London, 1906; Berlin, 1908; Brussels, 1910. The 1911 conference was to meet at Rome, but was postponed on account of the cholera in Italy. This year's conference will be held at Geneva, Switzerland. The meetings are invariably held in the parliament buildings of the capitals, under the auspices and with the financial support of the governments. The only conference which took place on American soil was held at St. Louis in 1904 in connection with the World's Fair. Congress made an appropriation of $50,000 for the entertainment of the delegates, who were the guests of the Nation for about three weeks.

HISTORY OF THE INTERPARLIAMENTARY UNION.

The plan of bringing together members of the different national parliaments with a view to work in the cause of international peace and solidarity, says Dr. Chr. L. Lange in his review of the history of the Interparliamentary Union, dates only from the latter half of the nineteenth century. It is true that already between 1830 and 1840 English and American friends of peace had discussed the creation of a "Congress of Nations." But this "American plan," as it was styled, had a different bearing. It aimed at the constitution of a periodical diplomatic congress. Official delegates of the Governments should be intrusted with the task of elaborating the international legislation, which is the necessary condition for the working of an international court.

This plan has found a late and as yet incomplete realization in the institution of the International Peace Conferences, which have met at The Hague in 1899 and in 1907.

Quite different was the plan of creating a cooperation in the service of the work of peace and arbitration among the parliamentarians of different countries. It was both more modest and more ambitious. More modest, because it only had in view a private, or at most a semi-official, work. More ambitious, because parliamentary action has a wider scope and finds a stronger echo than the governmental one. The parliamentarians are placed between the electors and the executive; they can act in two directions; form public opinion and push the governments in the direction they desire.

The plan of founding an Interparliamentary Union seems to have been formed for the first time toward 1870. It was the Franco-German War which called forth the idea in the mind of an Austrian Deputy, the Baron of Walterskirchen.

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Shortly afterwards, in 1872, the *Alabama* arbitration between the United States of America and Great Britain caused a general movement in the parliamentary world in favor of permanent treaties of arbitration, or at least of the introduction of the arbitration clause in treaties of commerce. The movement began in the British House of Commons, where, in 1873, Mr. Henry Richard, the well-known secretary of the Peace Society, introduced the first motion of the kind. It found a somewhat reserved but sympathetic reception from Mr. Gladstone, then premier, and it was carried by the House. During the following years similar motions were discussed by the American Congress and by several European parliaments, namely, by the Italian, the Dutch, the Danish, the Swedish, and the Belgian.

These discussions again awoke, and in the minds of different personalities, the plan of a parliamentary cooperation in favor of international arbitration and peace. The plan was even discussed at the International Peace Congress which met in Paris during the World's Fair in 1878.

But these plans and discussions had no practical consequences. The origin of the Interparliamentary Union is not to be sought there.

The foundation of the Interparliamentary Union is due to the persevering energy of William Randal Cremer, member of the House of Commons, and to the active and interested cooperation of the French deputy, Frédéric Passy.

Randal Cremer started life in the most humble conditions. At first a carpenter, he later became secretary and leader of his trade-union, then editor. In 1885, at 57, he was returned member of Parliament. Cremer had the great gift of concentration. He had founded in 1871 the Workmen's Peace Society, which became later the International Arbitration League. His favorite idea was to have concluded an arbitration treaty between the two branches of the Anglo-Saxon race. He desired in this to follow the line of least resistance. The example of the two sister nations, he imagined, would be followed by the other peoples. In 1887 he had obtained the signatures of 234 members of the House of Commons and of the leaders of trade-unionism to an address in favor of an arbitration treaty between the two powers. He himself crossed the Atlantic at the head of a British delegation in order to present this address to the American Congress.

The plan of an Anglo-American arbitration treaty failed. But out of this effort the Interparliamentary Union was born.

Cremer had seen that Frédéric Passy had voiced the cause of arbitration from the floor of the French Chamber. In 1888 he opened communications with him. Frédéric Passy is still to-day the veteran among the active friends of peace. Of high scientific culture, he is especially at home in economic questions. His horizon is larger than was that of his English colleague. An accomplished master of the word and of the pen, he is able to influence circles which could not be attained by Cremer. The two men completed each other, and they were equals in their belief in the ideal, in their unshakable optimism.

The cooperation of Frédéric Passy assured the support of French parliamentarians to the work which was to begin and to the organization already anticipated by Cremer.

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A preparatory meeting took place in Paris, in one of the rooms of the Grand Hotel, on the 31st of October, 1888. It was not very imposing; 9 British and 25 French parliamentarians were present. The task was strictly limited—to support the efforts of the last years in favor of arbitration treaties between the United States, France, and Great Britain.

One of the resolutions voted, however, has a larger scope:

Another meeting to which shall be admitted not only members of the three parliaments named above (sc., American, British, and French), but also the members of other parliaments who have made themselves known by their devotion to the same ideas, shall take place next year, in order to complete the work begun at this first conference.

Out of this resolution the Interparliamentary Union was born.

The first interparliamentary conference, properly speaking, took place in Paris in the following year, during the World's Exhibition, on June 29 and 30, 1889. This meeting had really an international character; 96 parliamentarians were present—55 Frenchmen, 30 British, 5 Italians, and 1 representative of each of the following countries, Belgium, Denmark, Hungary, Liberia, Spain, the United States. The conference was opened by Jules Simon and presided over by Frédéric Passy.

This meeting opened the series of successive interparliamentary conferences. In one of its resolutions it gave the fundamental reason of the interparliamentary institution:

The conduct of the government tending to become more and more the expression only of ideas and sentiments voiced by the body of citizens, it is for the electors to lead the policy of their country in the direction of justice, of right, and of the brotherhood of nations.

In the resolution which follows it anticipates the continuation of the work begun:

New interparliamentary meetings shall be held each year in one of the capitals of the countries represented at the conference, the next meeting to take place in London.

The following saying is attributed to Mr. Herbert Gladstone:

In a few years the foundation day of the Interparliamentary Union will be considered as a historic day.

The conferences at first met in private rooms. In 1892, at Berne, they entered the Parliament Building. In 1899, at Christiania, the head of a government first greeted them in the name of his country. Later the chief magistrates, and even the sovereigns themselves, have lavished attention and hospitality on them. This growth in reputation has its parallel in the constant growth of attention paid to the conferences by the press and by public opinion. At first met with contemptuous smiles, the interparliamentary conferences are now considered and spoken of as important international events.

Several times they have had the character of great demonstrations in favor of international peace and good will, and the impression created on the public mind has often had an importance equal to that of the debates and the resolutions passed.

In the following passages we give verbatim some parts of the speeches delivered at the conferences by contemporary statesmen, in order to show their opinion about the union.

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M. Fallières, now President of the French Republic, who took the chair at the Paris conference in 1900, then said in his opening speech:

You can measure by the sympathy with which you are met the degree of interest which attaches to your history. It is short, no doubt; but how well it is filled. Hardly 10 years have passed since you gathered in one bundle, which hereafter it will prove impossible to dissolve, those generous efforts which till then were disseminated all over the civilized world, and therefore without any discernible results. Ten years in the lives of peoples, it is much less than the flying second devoured by time; but this second, does it not suffice for the seed to touch the ground, there to deposit the germs of the coming harvest?

If we are not fortunate enough to reap this harvest ourselves, why should we dismiss the thought that one day our children may enjoy it?

Thanks to you, we are already far from the time when arbitration was considered as an intellectual pastime or a utopia condemned by what one is wont to call the wisdom of nations, whenever an unjustifiable opposition is set up. To-day you have to bow to evidence. Attempts which have succeeded are there to prove that it is with peoples as with individuals, and that for the former as for the latter there is no resistance which can in the long run stay the omnipotence of an idea when this idea derives its force from the holy source of fraternity.

In 1904 the President of the United States of America delivered a speech, to which we refer later on, before the members of the St. Louis conference, assembled at Washington. He said:

It is a matter of gratification to all Americans that we have had the honor of receiving you here as the Nation's guests. You are men skilled in the practical work of government in your several countries, and this fact adds weight to your championship of the cause of international justice.

It would be visionary to expect a too immediate success for the great cause you are championing, but very substantial progress can be made if we strive with resolution and good sense toward the goal of securing among the nations of the earth as among the individuals of each nation a just sense of responsibility in each toward others. The right and the responsibility must go hand in hand. Our efforts must be unceasing, both to secure in each nation full acknowledgment of the rights of others and to bring about in each nation an ever growing sense of its own responsibilities.

In 1906 Sir Henry Campbell-Bannerman, prime minister of Great Britain, greeted the London conference in a remarkable speech, in the course of which he said:

The majority of you have not come here—and I think you will wish this to be understood—as the accredited delegates of your respective parliaments. This gathering is unofficial. But you are here, if I read the times aright, in the fullest sense as the accredited representatives of your fellow countrymen and women, and in this capacity you are entitled to express, with an authority attaching to no other assembly in the world, the conscience, the reasons, and the sentiments of a large and not the least influential portion of the human race. In addressing you I feel that I am not so much speaking to the representatives of divers States of Europe and America as to the exponents of principles and hopes that are common to us all, and without which our life on earth would be a life without horizon or prospect.

With the purpose of your mission, let me say at once, His Majesty's Government desire unreservedly to associate themselves. It is their hope that your deliberations will do much to promote a closer understanding between the nations.

You have indeed done much since the new century began to give shape and substance to the growing, the insistent desire that war may be banished from the earth.

Finally, Prince Buelow, chancellor of the German Empire, expressed himself to the following effect, in the speech he delivered for the German Government to the Berlin conference in 1908:

It is the first time the Interparliamentary Union meets on German soil; but you are not unknown to us. In common with the civilized world Germany knows how to appreciate the services rendered by you to a noble cause. Looking at this illustrious gathering, I find all the ages represented in it; and that appears to me quite natural; for in your work you reconcile the fire of youth with the experience of a maturer age. Thus you fight against the hesitations and difficulties which oppose themselves to all good work. Thus you have reached results expected by very few at the outset.

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Led by most distinguished men—I only name your veteran, M. Frédéric Passy, whom we have the great pleasure to see amongst us, M. Passy, whom I remember to have seen in Paris nearly 30 years ago, and whom we see here again, as generous, as ardent, as young as in the past—led by such men, you have continued your work, which is to obtain guaranties for peace and good will among the nations.

Difficult work—hard work, so many passions, so many prejudices oppose themselves to it, but also beneficial work. I can say it without exaggeration—from year to year your success has been more and more pronounced. As a constitutional minister I know that, as representatives of the people, you voice the sentiments of your fellow citizens. Whatever may be said, their desires are in majority favorable to concord, to progress, to peace; that is, they are in harmony with your aspirations. As to the Governments, I hope you will render them this justice that they have met your desires by concluding international conventions. They have consulted your wishes by studying all the questions which to them appeared ripe. If the Governments are resolved to follow this course in future as in the past, it is in part your merit, gentlemen. The Governments are at one with each other, at one with you as to the goal to be attained. The divergence is as to the means to be employed to attain this goal, as well as possible and as safely as possible.

I wish to say another word which to me seems necessary; for some have tried to give to your work a character which does not belong to it; some have tried to impute to you, gentlemen, intentions which are not yours. Love of peace does not signify absence of patriotism. Those are patriots who try to prevent conflicts by fighting ignorance, always mischievous; prejudices, so unwholesome; hate, so often blind; ambitions sometimes deceitful. Acting thus you act as patriots, as those patriots who clear the roads, who remove the obstacles, and who thus render freer and easier the march of humanity toward the ideal common to all ages, to all nations.

During the first years the union had no permanent organization. The conferences invited their members to form interparliamentary committees in each country. There is the origin of the present groups. At the Rome conference, in 1891, the foundation of a central office was discussed, and the creation of a provisional secretariat was decided upon. A definitive organization was only instituted by the Berne conference in 1892. It founded the Interparliamentary Bureau, which should serve as central office of the union.

The attendance at the conferences has gradually become more and more numerous, and the groups can count a steadily growing number of members. In some parliaments all the deputies have entered them. Groups have been formed in nearly all the European States. Quite recently groups have been created in the Russian Duma, in the Ottoman Parliament, and in the Servian Skuptchina. Some members of the American Congress had attended individually at some conferences up till 1904. In this year an American group was formed. It showed considerable energy by organizing immediately the St. Louis conference.

WORK OF THE UNION.

The Interparliamentary Union, at its conferences has discussed quite a number of questions relating to the progressive evolution and organization of the Society of Nations. The conferences have passed resolutions regarding neutrality and regarding war. Several times they have declared in favor of the immunity of private property at sea during war. Two conferences have adopted a vœu in favor of the elaboration of a code of international law. Some of them have discussed the problem of the growth of armaments.

The union has always limited itself to the discussion of problems of international law; it has never discussed economic questions, and it has even expressly refused to pronounce itself on actual political questions.

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The union at first called itself the Interparliamentary Conference for International Arbitration. When first it expressly formulated its object, in 1892 at Berne, it thus expressed itself:

The Interparliamentary Conference for International Arbitration is the organ of groups of members of parliaments constituted or to be constituted with a view to obtain recognition in their States, either by the general way of legislation, or by particular international treaties, of this principle that conflicts between States should be submitted to an arbitration tribunal in order to be definitely settled, as well as to treat other international questions of general interest, pertinent to the idea of arbitration.

As the field of action of the union extended, its name seemed too narrow, and the dispositions of the statutes have also been somewhat altered. It is, however, in the extension of the practice of arbitration that the union has always seen its principal object. And if this practice, and in general, the practice of resolving peacefully international conflicts has made progress during the last 20 years, one can not but recognize the decisive influence of the union in this respect. The numerous points of contact created between the statesmen of different countries have no doubt contributed toward the evolution of a policy of peace in Europe.

We restrict ourselves to demonstrating the influence of the union on three points of capital importance: First, the constitution of the Permanent Court of Arbitration by the first, Hague conference; secondly, the convening of the second Hague conference; thirdly, the framing of the model arbitration treaty, which served as base to the discussions of the latter conference on this subject.

THE PERMANENT COURT OF ARBITRATION.

The first two interparliamentary conferences had only treated one side of the problem of arbitration, namely the conclusion of treaties stipulating the obligation for the States to submit conflicts to arbitration.

The Rome conference, in 1891, tackled another side of the problem; it invited the interparliamentary committees to put on the agenda of the following conference the institution of an arbitration court. This would mean important progress in two respects: From a practical standpoint, the recourse to arbitration would be facilitated if it were not necessary to organize the tribunal while the conflict was still exasperating the minds on both sides; and from a theoretical standpoint, the existence of such a court would show the state of progress of the society of nations. Indeed, it is only by the permanent existence of a jurisdiction, resting on law, that a society manifests itself as an organized whole, as a legal or judicial society.

The question occupied the three following conferences. At The Hague in 1894 the Hon. Philip Stanhope (now Lord Weardale), then a member of the House of Commons, laid a report before the conference on this question. He concluded by proposing to charge a commission of six members to elaborate and to submit to the following conference a draft for the organization of a permanent court of arbitration. The draft should repose on the following principles:

(1) National sovereignty remains inalienable and inviolable.

(2) The adherence of each Government to the constitution of an international permanent court should be purely voluntary.

(3) All adherent States should be on a footing of perfect equality before the international permanent court.

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(4) The judgments of the permanent court should have the form of an executive sentence.

The conference adopted the propositions of Mr. Stanhope. At the following conference (Brussels, 1895) M. Houzeau de Lehaie, Belgian senator, submitted a report in the name of the commission, and concluded by recommending a draft convention in 14 articles, prefaced by a short statement of reasons. The conference approved it and instructed its president, Chevalier Descamps, Belgian senator and professor of international law at the University of Louvain, to submit it to the Governments of civilized nations.

Chevalier Descamps accomplished the task intrusted to him. His "Essai sur l'arbitrage international, Mémoire aux Puissances," sets forth the work of the interparliamentary conferences on this subject. It is considered as one of the first works regarding arbitration.

When four years later, in 1899, the first peace conference was convened at The Hague Chevalier Descamps, who represented Belgium at the conference, was nominated rapporteur of the third commission, intrusted with the study of the problems of international arbitration. The great convention voted by the conference "for the pacific settlement of international disputes" to a large extent rests on the convention drafted by the Interparliamentary Union. Thus it places all States on the footing of perfect equality with respect to the arbitration court created by the convention.

This was a real victory for the ideas championed by the union. It has even been said that the calling of The Hague conference itself was due to the interparliamentary movement, especially to the Budapest conference in 1896. It is probable that several influences were at work, even of rather different character, to decide the Russian Government to call the peace conference.

At any rate, the conference had the greatest interest for the interparliamentary workers. A number of questions studied by the union had been discussed at The Hague by responsible and official delegates of the States. Only some of these had been resolved. The peace conference showed to the interparliamentarians what an important task lay before them: To make the great reforms which are to replace the present anarchical state of international relations by a juridical and legal one, ripen in the public mind, and to prepare them for the discussion at the diplomatic conferences.

CALLING OF THE SECOND HAGUE CONFERENCE.

And this explains that the St. Louis conference in 1904 took the initiative to solicit the convening of another peace conference. Hon. Richard Bartholdt, as president of the American group and president of the conference, introduced the question through a resolution which he had drafted and which he had asked Senator Theodore Burton to introduce. Two subjects are indicated in the resolution as worthy of discussion at the next conference: (1) The conclusion of arbitration treaties between the States represented at the conference, stipulating their obligation to have recourse to arbitration; (2) the periodicity of the international congresses, which would thus form a legislative institution within the society of nations, alongside of the judiciary created by the first Hague conference. Thirdly, the resolution ends

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with a respectful request to the President of the United States of America to take the initiative of calling the conference.

On the 24th of September, 1904, Mr. Bartholdt, on behalf of the members of the interparliamentary conferences, transmitted the resolution to Mr. Theodore Roosevelt at the White House in Washington. Mr. Roosevelt ended his reply to the address with the following words:

> At an early date I shall issue the call for the conference you request.

This initiative provoked, three years later, the meeting of the second Hague conference.

MODEL ARBITRATION TREATY.

In the meantime the union was actively occupied with the framing of the program for this new conference. This work entirely filled the two general assemblies, of Brussels in 1905, and of London in 1906. On a special point the London conference voted a draft of an international convention and took a new step forward in the arbitration question, still the chief object of the interests of the union. Indeed, if the court instituted by the first Hague conference should be able to exert all its usefulness, it was necessary that the States engaged themselves to have recourse to arbitration for certain classes of conflicts.

"The model arbitration treaty," says Mr. Lange, "due to the initiative of Mr. Richard Bartholdt, Member of the American Congress, which was voted by the London conference on the remarkable report submitted, on behalf of a special commission, by his excellency, Ernest de Plener, late Austrian minister of finance, was to play an important part at the Hague conference of 1907. It was adopted by the Portuguese delegates and by them submitted to the arbitration commission. Around this draft convention were fought the most passionate struggles of the conference. During these debates the draft was limited in certain respects, but considerably extended in others. At first received very coolly, it found successively a more and more numerous following, and at last it united the votes of 32 States out of the 44 represented at The Hague."

This was not sufficient. The principle of the necessity of a unanimous vote, which is regularly followed in diplomatic conferences, again prevailed, as the minority refused to give way. The conference passed a unanimous declaration, however, in favor of the principle of obligatory arbitration:

> Some conflicts, especially those concerning the interpretation and application of international conventions, are liable to be submitted to obligatory arbitration without any restriction.

It would be wrong to minimize the great importance of this unanimous declaration. But it does not bind anybody juridically. The second Hague conference only instituted the obligatory recourse to arbitration for conflicts regarding the recovery of contract debts, a special point without any connection with the work of the Interparliamentary Union, and on which we shall not dwell here.

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REORGANIZATION OF THE UNION.

The union could point to a moral victory; at The Hague the majority had rallied to its standpoint, but it had not found unanimous favor. In order to gain a complete victory it was necessary to redouble the efforts and to concentrate them.

From this standpoint the Fifteenth Interparliamentary Conference should be looked at. It met at Berlin in September, 1908.

The Berlin conference will have a place of its own in the history of the union. The place where it met, the circumstances which accompanied it, combined to give it quite a special character. It was a most imposing demonstration in favor of the ideas of international peace and solidarity. More than 600 parliamentarians participated, representatives of 18 different countries, among them Japan and Russia.

The meeting was of particular importance for the organization of the union.

Since the Christiania conference in 1899, the union had been led by an interparliamentary council, composed of two delegates from each each national group. This body now got its permanent chairman, while hitherto a chairman had been designated for each session. This new dignity has been conferred upon M. Auguste Beernaert, Belgian minister of state, late prime minister and late president of the Chamber of Representatives.

The chairman is at the same time member and ex officio chairman of a new body, the executive committee. The latter is composed of five members, the four being elected by the conference in a plenary sitting and belonging to different groups. One of them withdraws at each conference and can not be reelected till after two years. He is to be replaced by a member belonging to another group.

This committee has the control of the interparliamentary bureau, which has been transferred from Berne to Brussels. The management of the bureau belongs to a general secretary nominated by the council. The task of the bureau is thus defined by the statutes of the union:

(1) It keeps the lists of members of the national groups and activates their formation.

(2) It is the central organ of the groups in all that concerns their reciprocal relations.

(3) It prepares the questions to be submitted to the council and to the conference and distributes in time all the necessary documents.

(4) It attends to the execution of the decisions of the council and of conferences.

(5) It keeps the archives and collects the documents concerning international arbitration, as well as other documents regarding the objects of the union.

The new organization necessitates considerable expenditure. In order to meet this, the union has made an appeal to its different groups asking them to assure an annual revenue. Earlier the union had lived on the individual contributions of members; one State only, Norway, had each year voted an official subvention. At the Berlin conference, Lord Weardale, one of the principal promoters of the reorganization, announced that the British Government proposed to grant to the union an annual subsidy of £300.

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The examples of Norway and of Great Britain have already been followed by several States, and at present the union is assured of an annual receipt of some £2,000.

The union thus has entered on a new phase, its relations with the States and the Governments having been consolidated. The latter, by their subventions, have imposed obligations on it. But at the same time they have engaged themselves morally to take into serious consideration the conclusions which the union may reach in its study of international problems. The Interparliamentary Union, in this way, has become one of the constructive elements in the future organization of the society of nations.

The union has a great task before itself, and in order to accomplish it, it will want the active help of all the good will in existence within the different parliaments of the world.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 446.

PRESERVATION OF NIAGARA FALLS.

MARCH 26, 1912.—Ordered to be printed.

Mr. SULZER, from the committee of conference, submitted the following

CONFERENCE REPORT:

[To accompany H. J. Res. 232.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution (H. J. Res. 232) extending the operation of the act for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment, as follows:

To insert after the word "hereby," in line 4 of the resolution, the words *reenacted and*; and to strike out, in lines 5 and 6 of the resolution, the words "May first, nineteen hundred and twelve," and insert in lieu thereof the words *March fourth, nineteen hundred and thirteen*, so that the resolution shall read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the aforesaid act be, and they are hereby, reenacted and extended from March first, nineteen hundred and twelve, being the date of the expiration of said act, to March fourth, nineteen hundred and thirteen; and the Senate agree to the same.

Amendments numbered 2 and 3:

That the House concur in the amendments of the Senate numbered 2 and 3 to the preamble, viz, by striking out the word "expired" before the word "March" and inserting in lieu thereof the words *and further extended to*; and after the words "August 22, 1911," inserting the words *expires March 1, 1912*, so that the preamble shall read:

Whereas the provisions of the act entitled "An act for the control and regulation of the waters of Niagara River, for the preservation

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of Niagara Falls, and for other purposes," approved June twenty-ninth, nineteen hundred and six, and extended to June twenty-ninth, nineteen hundred and eleven, by joint resolution (Public Resolution Numbered Fifty-six), and further extended to March first, nineteen hundred and twelve, by joint resolution (Public Resolution Numbered Nine), approved August twenty-second, nineteen hundred and eleven, expires March first, nineteen hundred and twelve; and the Senate agree to the same.

WM. SULZER,
HENRY D. FLOOD,
Managers on the part of the House.
THEODORE E. BURTON,
ELIHU ROOT,
A. O. BACON,
Managers on the part of the Senate.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 451.

INDIGENT PERSONS IN ALASKA.

MARCH 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HARDY, from the Committee on the Territories, submitted the following

REPORT.

[To accompany S. 267.]

The Committee on the Territories, to whom was referred the bill (S. 267) providing for assisting indigent persons other than natives in the district of Alaska, having had the same under consideration, report it back with amendments and recommend that the bill as amended do pass.

The committee having thoroughly considered S. 267 and in connection therewith H. R. 21773, having the same general purpose in view, have amended said S. 267, first striking out the title of said Senate bill, which read "An act providing for assisting indigent persons other than natives in the district of Alaska," and substituting therefor the words "An act to provide assistance to persons in Alaska who are indigent and incapacitated through nonage, old age, sickness, or accident and for other purposes."

Second, by striking out all after the enacting clause in said S. 267 and substituting therefor the provisions of H. R. 21773.

The changes effected by said amendments were deemed advisable and are substantially the provisions of H. R. 21773, introduced by the Delegate from Alaska, Mr. Wickersham, which in its general terms is believed to be an improvement. We have changed the amount of the appropriation from 5 per cent named in the Senate bill to 10 per cent of the fund derived from licenses and occupation taxes to be appropriated to the purposes of the bill, believing that 5 per cent would most likely be insufficient to meet the actual cases of necessity to be provided for. At the same time, by the provisions of the bill, as amended, if there shall be any surplus remaining after the needed relief has been extended, there is provision made for its return to the Treasury of the United States and its subsequent application to lawful and proper Territorial expenditures; that is to say, to the construction and maintenance of wagon roads and trails

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in said Territory. It is believed that the bill, as amended, improves the administrative features of S. 267 as it passed the Senate and was referred to the Committee on Territories of the House.

Said Senate bill contained no provision for the return to the Treasury of any unexpended balance in case the appropriation should not be all required to be expended. As amended, that defect is repaired. As to the increase of the amount to be expended, your committee is of opinion that the increase ought to be made, but it has nevertheless amply provided for the contingency that might arise in case the whole amount appropriated under the bill should not be required to be expended. Your committee is informed that the sums paid into the "Alaska fund" from the date of its creation by the act of January 27, 1905 (33 Stat. L., 616), is as follows: 1905, $40,172.23; 1906, $160,660.28; 1907, $164,656.14; 1908, $205,773.63; 1909, $155,305.26; 1910, $260,040.26; 1911, $175,490.59.

These moneys are paid as license and occupation taxes by the people engaged in business in the Territory of Alaska, and no part of the money is obtained from any appropriation by the Congress.

It is proper to say that H. R. 21773 in its general terms and provisions meets with the approval of the governor of Alaska, as stated by him while before your committee, and it is along the line of the suggestions made to your committee by Bishop Rowe, of Alaska.

The Territory of Alaska has no law providing for relief of the indigent classes to which this bill applies.

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62D CONGRESS, 2d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 455.

TO REDUCE THE DUTIES ON WOOL AND MANUFACTURES OF WOOL.

MARCH 27, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. UNDERWOOD, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. R. 22195.]

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TO REDUCE THE DUTIES ON WOOL AND MANUFACTURES OF WOOL.

The Committee on Ways and Means, to whom was referred the bill (H. R. 22195) to reduce the duties on wool and manufactures of wool, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

H. R. 11019 REINTRODUCED.

Except for the change in date of effectiveness and the correction of minor clerical errors, this bill, H. R. 22195, is identical with H. R. 11019, introduced at the first session of the present Congress. Downward tariff revision was the chief issue in the 1910 campaign. The overwhelming manner in which the Democratic Party was given the control of the House of Representatives in the election of that year severely repudiated the Republican failures at tariff reform in the Payne-Aldrich Act of 1909 and plainly instructed the Democrats to proceed at the earliest practicable moment with a downward revision of the tariff. Hence it was that upon the convening of the Sixty-second Congress in the special session of April 4, 1911, this committee at once applied itself to the work of revising Schedule K in an effort to make immediately effective the mandates of the people with regard to tariff revision.

The bill H. R. 11019 was the result of elaborate and painstaking investigations by the committee, during which was assembled and examined all the information available with regard to the production and manufacture of wool. The rates of duty worked out by the committee and embodied in H. R. 11019 were fixed without any reference whatever to protection, but with an intent to reduce the "indefensible" rates which have been so long a burden to the consumer and with the only other view to producing the necessary revenue from this schedule.

A modified form of H. R. 11019, carrying slightly increased rates of duty, was passed by the Congress, submitted to the President of the United States, and vetoed by him on August 17, 1911. The veto was defended on the ground that the Tariff Board had not completed its investigations of Schedule K. In this veto message the President quoted from his message to Congress of December 7, 1909, as follows:

> I believe that the work of this board will be of prime utility and importance whenever Congress shall deem it wise again to readjust the customs duties. If the facts secured by the Tariff Board are of such a character as to show generally that the rates

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of duties imposed by the present tariff law are excessive under the principles of protection as described in the platform of the successful party at the late election, I shall not hesitate to invite the attention of Congress to this fact and to the necessity for action predicated thereon.

In his veto message of August 17, 1911, the President also said:

When I have the accurate information which justifies such action I shall recommend to Congress as great a reduction in Schedule K as the measure of protection, already stated, will permit. The failure of the present bill should not be regarded, therefore, as taking away the only chance for reduction by this Congress.

In its report on H. R. 11019 (H. Rept. 45, 62d Cong., 1st sess.) the committee said:

It would be trifling with the people to give further consideration to Republican counsels of more delay in this matter, whether with regard to statistical data concerning cost of production, promised at a future date, or for any further reason.

Notwithstanding this conviction, the Democratic majority of the House of Representatives, impatient to respond to the demands of the people for a speedy revision of a schedule of indefensible rates, was forced to delay further effort in answer to the protests of the American people.

In his message of December 20, 1911, the President said:

I now herewith submit a report of the Tariff Board on Schedule K. The board is unanimous in its findings. On the basis of these findings I now recommend that the Congress proceed to a consideration of this schedule with a view to its revision and a general reduction of its rates.

The committee has made a careful analysis of the report of the Tariff Board in order to interpret the findings and to discover in what particulars the committee's bill, H. R. 11019, was defective or failed to adjust the duties in an equitable and proper manner. This analysis has failed to reveal anything that requires a single change in the rates fixed in H. R. 11019, and the committee is constrained to present again the results of its investigation of last summer, as embodied in the bill presented to the House at that time.

Apparently the only real effect of the 12 months' delay in the revision of Schedule K, based upon the necessity, as stated by the President, of awaiting the report of the Tariff Board, has been to allow manufacturers another year of excessive rates and to compel the people to pay for their woolen clothing during the year about $50,000,000 more than they would have paid under the rates of H. R. 11019.

As shown in the analysis, the data of the report of the Tariff Board have been found to be diffuse and unsystematic, to present insignificant findings, and, as stated, to afford the committee no valid reason for any change in its recommendations of last session with regard to the rates of Schedule K.

Analysis of Tariff Board's Report.

SCOPE OF ANALYSIS.

The following discussion of the Tariff Board's report on Wool and Manufactures of Wool is divided into three parts: (1) The general character of the report on wool and manufactures of wool (pp. 5-8); (2) the circumstances under which it was prepared, its characteristics

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and the general features which entitle it to confidence or the reverse (pp. 9–32); and (3) an interpretation of the board's report, and an attempt to apply it to the tariff situation (pp. 33–66). The three parts of the discussion are necessarily independent of each other. In considering the broad question of tariff revision, a decision must first be reached as to the acceptance of the so-called cost of production theory as a basis for such revision. Conclusions on this point are made in the first part. Again, if the cost of production theory is acceptable in the abstract, or may conceivably be made so, the question remains whether the report is worked out from the statistical standpoint thoroughly and carefully so as to present trustworthy results. Finally, independent of the conclusions reached on cost of production in the abstract, and whether or not the report is satisfactory in its technique, the question will remain as to what actual significance regarding tariff duties is to be given it granting, for the sake of argument, that its conclusions are accepted.

Cost of Production Theory.

The greater portion of the report consists of a study of what is called "comparative cost of production" of wools and manufactures of wool in various countries, the chief stress being naturally laid upon conditions in the United States. The report deals exclusively with this subject, if the language be so interpreted as to include matters which are ancillary to cost of production in the narrow sense of the term. While the report contains considerable descriptive and other matter such as quotations of prices and the like, these are contributory to the analysis of cost and are evidently intended merely to enable readers to make use of the cost figures more intelligently.

It is, therefore, fair to note at the outset exactly what is meant by using the cost of production theory as a basis for adjusting tariff duties, and what validity it has as a practical guide to legislation. By cost of production the board invariably understands money cost of production, or as some economists have expressed it, "money expenses of production." These expenses of production are ascertained in various ways and for various products in the several countries studied, and comparisons are then drawn between the figures thus secured.

In passing upon the validity of this mode of procedure, it is necessary to review some familiar economic reasoning.

The view, that the proper basis for tariff duties is found by comparing money costs of production, rests upon the opinion that money costs represent the relative degrees of sacrifice involved in turning out commodities of a given kind in various countries. For instance, if it be assumed that a given unit of a certain commodity can be produced in England for one dollar, or the equivalent of that sum, while in the United States the money expenses of production are $1.25, it is necessary to have a tariff duty equal to the difference in these money expenses of production, or certainly to the difference in money expenses minus the allowance for variations in freight rates, in order to place the producers in the two countries upon an equal market footing. If this is not done, it will be possible for the producer in the country where money expenses are lowest to drive out of business the pro-

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ducer in the country where money expenses are highest. This assumption is based upon an erroneous view of international trade, and finds no warrant whatever in economic reasoning.

RELATION BETWEEN PRICES AND COSTS.

In certain classes of goods prices or selling values are fixed, not by the cost of producing at the point of lowest cost, but by the cost of producing at the point of highest cost. This is true of every commodity subject to the law of diminishing returns. In the case of such commodities, the price is fixed ultimately by the cost of producing that portion of the supply brought into existence under the least favorable conditions, provided that all portions of the supply are necessary to satisfy a given demand. Thus, if the price of wheat is 75 cents a bushel, wheat will command that figure regardless of whether it is produced at 25, 50, 75 cents, or $1 per bushel. The price is fixed by a comparison of demand and supply, and cost of production merely affords one of the limits which ultimately determines the range of prices. This is a familiar condition in connection with agricultural commodities, in which production continues on unfertile lands, though very much better soil may be in use. The better soil does not drive the poorer out of cultivation, unless there is so much of the better as to render it unnecessary to cultivate the poorer soil. Where soils of different grades are employed, the price of the product has nothing to do with cost of production, but is determined by the cost of production of the most expensive unit of the desired supply. In these cases a study of the difference in cost of production would have no relation whatever to the amount of tariff needed to protect industries in one country against the competition of those in another.

The production of numerous commodities is carried on in countries having a much smaller natural aptness for them than do others, because the latter, which might compete successfully with them, have a far greater advantage in producing some other commodity. Thus, if State No. 1 can produce both corn and wheat more cheaply than State No. 2, it does not follow that it will do so. If the former's advantage in the production of wheat is disproportionately greater than in the production of corn, it will devote attention chiefly, or wholly, to wheat—the commodity in which it has the greatest surplus of productive power. In this case a study of the difference of money expenses of production will throw no light whatever upon the amount of tariff needed in order to equalize conditions of production. There are numerous instances in which a condition of this kind exists—a country having the decided advantage in a certain commodity, but producing it only to a very limited extent, because there is so great a field for its capital in other directions. In such cases the fact that the money cost of producing a given article in the country of great advantage is lower than in the least favored country does not prove the necessity of a tariff duty upon this article in the less favored country, because the more favored will not produce it to any considerable extent in any event.

Even in those instances where two countries are extensively engaged in producing a manufactured article, whose price is determined by cost of production under the most favorable conditions, as

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is the case with many largely manufactured articles such as shoes, cloth, and the like, a difference in money cost of production does not necessarily indicate anything as to comparative competitive power. That it may do so, there must be an ascertainment of the relative efficiency of labor, and the extent to which given money expenses are the result of already existing tariff duties. If expenses of production have been rendered higher by tariff duties, so that the cost of producing an article is enhanced by tariff duties on the raw material, the fact of higher money expenses of production does not necessarily indicate inferiority in productive power as to that particular article.

VARIATIONS IN COSTS.

Beside these considerations, in every country there is a great range of difference in cost of production. Scarcely any commodity can be said to have a uniform cost of production. There is more difference, as a rule, between different factories in the same country than there is between the best and poorest factories in one country and those of corresponding grades in another. This has been amply illustrated by the work of the Tariff Board. In its report on pulp and paper, the board found little difference in money cost of production between the United States and Canada in the best mills, but it did find very great difference between the best and poorest mills in the United States. The indication would have been, therefore, that while protection was not needed by the best factories in the United States against Canada, it was needed by the poorer factories against the better factories in the United States, but not against those in Canada. Owing to this variation in cost of production within the same country, it is not possible to compare in exact terms the productive power of one country with that of another.

Only averages can be taken, and these show nothing whatever as to any given case. The cost of production theory in order to mean anything must be qualified by provisions showing whether it is intended to apply to differences between the best factories in two countries, or the difference between the poorest factories in one country and the best in another. Otherwise it will indicate nothing, even upon its own theoretical basis, since a tariff which would protect the best factory in one country will not protect the poorest factory there, or perhaps the average factory. A duty which will equalize the average difference in cost of production between two countries protects no one, since it is more than is needed by the most efficient producer and less than is needed by the least efficient producer.

Even if it be granted that an ascertainment of differences in money cost of production—whether highest, average, or lowest—would furnish a guide to the proper amount of tariff duty needed for protective purposes, the problem would remain whether money expenses of production could be ascertained in such a way as to render the method available. Experience, as well as theoretical considerations, show that this is not the case.

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COSTS NOT ASCERTAINABLE.

The following are some of the reasons why costs are not obtainable:

1. In getting at money expenses of production they must be ascertained from books designed to show manufacturing costs. No uniformity exists in methods of cost accounting, and many factories do not employ any cost-accounting system. Cost figures obtained without cost books are of very little service. Such figures obtained from sets of books which are kept in a different way are equally of little service. This condition exists in the textile industries to a very great extent—a condition admitted by the Tariff Board throughout their report.

2. Even if money costs could be actually ascertained in an unquestionable manner and upon a comparative basis, they must be obtained, not from one competing country, but from every competing country, so that the average extent or scope of competition might be known against which the United States must exert its energies. It might very well be that one country would have a low money cost of production, but this would be of little significance, as that country could not indefinitely increase the amount of its production.

3. Even if the facts could be accurately ascertained for all competing foreign countries, the figures would be of little service as a guide in fixing tariff duties, because it would not be known in any given case whether such costs afforded the basis for fixing prices. Wherever monopoly conditions obtain, wherever the export-price system exists, and wherever patents are an important factor in production, the mere ascertainment of the cost of production is of little importance. It is far more significant in such cases to know the range of actual selling prices over a long period.

4. Inasmuch as differences in money cost of production have no particular significance unless they correspond to relative sacrifice of labor and capital, and inasmuch as they do not thus correspond except in countries whose price levels are about the same, there is no safe conclusion to be drawn as to the extent to which a country possessing a low money cost will be able to undersell or compete with a country subject to a high money cost.

FUTILITY OF INQUIRY.

For these reasons the effort to obtain detailed money costs of production as a basis in fixing rates of duty must be considered futile, even if it could be successfully carried out in the inclusive way spoken of. While it is perfectly true that manufacturers are always eager to know the cost of production in the plants of their competitors, they are not desirous of giving their own, because they recognize the fact that unless they can keep costs down to an average level they are likely to be displaced. In international trade the question of competition is not raised between individuals, but between groups of individuals, in the two countries. This is, therefore, an entirely different proposition and one which has comparatively little reference to the question of money cost of production. When the statement is made by advocates of the money cost of production theory that a duty is desired which will not only equalize costs but also allow for a margin of reasonable profit, the difficulty

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is intensified. At all times there are some producers who may be carrying on business at a loss. If it be intended to have the duty sufficiently large to enable the poorest producers to obtain, theoretically, a reasonable profit, an excessively high rate is indicated, and this allows the more efficient factories to get very much more than their reasonable profit.

The situation is clearly brought out in the case of railroad rates, where the effort is to fix the rates upon a reasonable basis; yet this almost invariably results in giving to the well built and efficiently managed roads too large a margin of profit, while it does not give sufficient margin to those overcapitalized, badly constructed, or inefficiently managed. The addition of a reasonable profit over and above the difference in the cost of production very greatly complicates the problem and renders what was already impossible in theory positively absurd in application.

REPORT NOT A TARIFF DOCUMENT.

Probably the most striking feature of the report of the Tariff Board is that it contains little with reference to the tariff. It is primarily an analysis of the money expenses involved in the production and manufacture of wool. With the exception of a brief section relating to the question whether raw-wool rates should be levied on an ad valorem or specific basis, and with the further exception of the study of shrinkage in wool which is presented as ancillary to the question of ad valorem or specific rates, the report has nothing to say respecting the tariff and its effects either upon capital or labor, or upon the consumer as he is affected by prices of goods. The report, as now published and before Congress, consists of four volumes. The first is a so-called "glossary" in which are given explanations of the meaning of terms used in connection with tariff legislation, production, importation, consumption, and the like, for the United States and other countries. The second volume includes a study of the cost of producing raw wool, the third a study of manufacturing costs in the woolen industry, and of costs or outlays in the ready-made clothing trade.

The fourth volume undertakes a study of wages and efficiency in the woolen and worsted business of the United States. At a later point occasion will be taken for a more complete analysis of certain portions of this report.

VALUE OF REPORT.

Volume I, containing the message of the President, letter of submittal, summary of findings, and glossary, will undoubtedly be of use in explaining to the public the significance of the existing tariff and of the terms used in it. The volume probably contains little that was not already available to any Member of Congress who chose to avail himself of the facilities at his command. It is essentially a clerical or library compilation from printed sources, and as such affords little of service to the practical legislator other than its convenient form.

Volume IV, Wages and efficiency of labor and machinery in the United States, treats a subject which has already been exhaus-

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tively discussed by the United States Immigration Commission in reports on the woolen industry, and the Tariff Board undoubtedly drew upon this source. Whatever may be the intrinsic value of this volume and however serviceable it may be to students for reference, as a contribution to tariff discussion at the present time it has no value, because it does not contain, or profess to contain, comparative material on efficiency in foreign countries. It deals only with American conditions. Taken in a general way, as showing the status of labor in the woolen and worsted industry, it is less comprehensive than the reports of the Immigration Commission. The board has carried the study of earnings in some instances to a more advanced point than the report of the Immigration Commission, yet this has not materially contributed to the usefulness of the report. This refers particularly to the question of wages per hour, per unit of product, etc., data for which are not found in the Immigration Commission's report, but which, whatever may be thought of them, can not aid now, because of the entire lack of comparable data.

Volume III contains a discussion of manufacturing costs, tops, yarn, and cloth, and ready-made clothing. About one-fourth of the volume is devoted to a study of ready-made clothing—a subject fully covered by the Immigration Commission in a report prepared at great expense which has been available for some time. The ready-made clothing report of the board contains an analysis of cost by sample or specimen pieces of clothing, of which a more complete discussion will appear later. But, without going into the question of the ready-made clothing inquiry at present, there seems to have been no good reason for devoting to this subject the attention given it by the board. The principal discussion has related to the duties on raw wool and manufactures of wool. The rates of duty on ready-made clothing have been of relatively little importance. Our imports of that article have not been large, amounting to only $1,776,236 during the fiscal year ending June 30, 1910, and would not have been large in any event on account of differences in style. As the board itself points out, the industry is highly competitive, and may be regarded as a minor factor in the tariff issue.

Apparently the chief reason for this inquiry was the opinion that it would show the cost of woolen goods to be but a very small factor in the cost of ready-made clothing. Waiving this issue for the present it may be concluded that, so far as the question of tariff rates on wool and manufactures of wool is concerned, that part of the board's report which relates to ready-made clothing is largely irrelevant.

SIGNIFICANT FEATURES OF THE REPORT.

Those portions of the report which have a bearing upon the immediate question before Congress and which should be studied in relation to the problem of the tariff are comprised in Volume II and in the first half of Volume III. Included in these volumes is much that has no immediate bearing on the subject. The "Notes on sheep ranching in the West," for example, are fragmentary and contain no direct references to comparative costs that throw light upon the tariff. In the second volume of the board's report, which deals with raw wool, the material deserving of consideration is com-

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prised within pages 300 to 541, a total of 241 pages, while in Volume III on manufacture, the significant portions are included in the 223 pages between pages 619 and 842. Even on the pages quoted there is much that has only a very general bearing upon the subject of industrial costs, and of this a rather large proportion has been previously published either in this country or abroad, thus being already available to those who might wish to examine it; in many instances material so published was already in the files of the Ways and Means Committee. Practically all of the material as to prices, imports, exports, and foreign conditions was readily available, as was also a large part of the information on shrinkage.

COSTS OF CAPITAL AND NATURAL AGENTS.

Throughout its investigation of costs of production, the Tariff Board apparently considers the maintenance of the existing tariff, or something approximating it, fundamental and necessary. Thereby it adds very greatly to the "cost" stated as representative of the necessities of the American wool and wool-manufacturing industry under existing conditions. This is an error which runs consistently throughout the whole report and which needs to be considered very carefully in order to realize the far-reaching character of the modifications which it involves.

Fundamentally, the mistake of the board in considering the tariff as a permanent feature is found in the attitude it adopts toward the cost of capital and of natural agencies. Starting with the raw-wool industry, the board regards the cost of land or the price paid for the use of it as an integral element in wool raising. In Volume II (p. 309), under the head "The problem of land values," the report says that in some regions "the sheep owners possess but little land, often only enough to give them control of water rights, etc., while in other parts the land owned by them represents a large investment and occasions a heavy charge against the sheep; but all the flock owners depend to a greater or less extent on land which they do not own."

In getting at the method employed in dealing with this question of land values, the board allows a charge against the sheep designed to cover the grazing value of the land. This allowance "has been determined on the basis of prices actually paid for the use of similar land leased or rented in the same region." It is apparently included in the estimates of cost under the head of "Miscellaneous expenses." Here is a mistake similar to that made by the board in its report on pulp and paper. The value of land, whether estimated as a lump sum, as a rental, or partly, as in this case, a grazing value, is determined solely by the demand for the products of the land, and the consequent price that can be obtained for such product. A farm is worth $50 an acre for the sole reason that the products raised on the farm can be made to bring an income, which, all things considered, will pay interest on $50 per acre. Grazing land leased for the use of sheep owners will bring 20 cents an acre merely because of the fact that the sheep are there, and there is a demand for the land; but the grazing demand is due to the fact that the industry is being carried on subject to tariff protection under conditions which

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enable the owners of land to exact such a charge. Reduction of the tariff would eliminate this payment so far as based upon a fictitious or artificially established value.

In the case of pulp and paper, it was found by the board that one reason for the high cost of paper in the United States was the fact that papermakers charged themselves the prevailing rate for pulp wood, and so recorded this charge on their books as an element in cost, notwithstanding that the woodlands were owned by themselves and had been bought years ago at a low figure. They increased in value merely because the scarcity of wood produced by excessive tariff protection rendered it impossible to get the wood without paying an abnormally high price, which in turn raised the value of the land. This enabled the paper manufacturers to claim that the high price which they paid themselves for the wood was really no more than was necessary in order to pay the interest on their investment in the woodlands. It was a clear case of the use of the tariff to maintain an artificial or monopoly value. A somewhat similar condition is seen in the allowance for grazing cost which is included by the board as an integral part of the cost of raising wool. No progress can be made in studying the tariff problem so long as this point of view is adhered to, for the very basis of the argument assumes the continued recognition of artificial values of capital and natural agents from the very moment they are established through the imposition of an excessive duty.

TREATMENT OF IMPROVEMENTS.

The kind of error just discussed is also seen in the treatment by the board of improvement and equipment. The board has ascertained the value of improvements apart from that of the land and then allowed a 10 per cent depreciation. It points out (p. 310) that many articles of equipment depreciate rapidly on account of their nature or carelessness in their use and there is good reason to believe that carelessness has been of much importance in raising the cost of wool production in the United States. Highly protected as the industry has been, producers have not exercised the same moderation in investment nor have they kept the industry upon the careful business basis that foreign countries have. This is borne out by the board's addenda on sheep farming in the various wool-raising sections of the country (pp. 545–616 in Vol. II). In the notes on sheep farming in the Western States (pp. 593–608), conditions are indicated which show that the industry is not upon the same businesslike basis existing in foreign countries. In many instances the business is not under the personal management of the owner, and the result is a large advance in cost of production because of the expensive methods of conducting the enterprise. The same situation, probably in an aggravated form, is found in the more eastern districts, where the raising of sheep is frequently a side issue and no serious attention is given to carrying on wool-raising upon a well-organized footing.

This means that the allowances made by the board for investment, equipment, etc., do not afford a good guide to the real cost of production, inasmuch as they fail to show conclusively that such costs are the lowest that can be secured. There was the same situation in the paper industry where much of the cost of capital was due to the fact, there clearly set forth, that the machinery employed in many mills

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was obsolete in character and therefore cost much more to run than did that in the more recently built mills. Canada's advantage over us was found to be in part due to the fact that as the industry was more recent with her, nearly all of her mills had installed modern machinery. Likewise the tariff has guaranteed a home market for wool, and practically closed it to outside wool so long as any domestic product could be offered in competition, so stimulating and confirming wool raisers in careless and uneconomical methods of doing business, whereas under more competitive conditions they would have cut their costs at all points where reasonable savings could be made.

In this connection it is worth while to note that in Texas, New Mexico, and Colorado, where the industry is presumably upon a decidedly commercial basis, the laborers required in carrying it on can be employed according to the board (p. 593) "at very reasonable rates," the laborers being largely Mexicans. In California, Mexicans and Basques are largely employed, and in not a few other States foreigners are engaged in the work at low wages.

The alleged higher cost of investment and equipment can not be explained by a larger amount of capital needed on account of excessive sums tied up in wage payments, but must be explained in the way already indicated. The board makes something of a point of the fact that no allowance is made for interest on capital invested. It is a fact, however, that every other possible allowance is made for capital used and, as thus indicated, is made at a high rate.

ERRONEOUS FIGURES ON MANUFACTURING.

The error of constantly regarding the tariff as a necessary factor in cost is found when the industry is studied from the manufacturing standpoint. There the tariff element is allowed to figure in connection with the cost of building and equipping a mill, which is found to be very much higher in the United States than abroad, amounting probably to double the outlay necessary there for that purpose. The report states (p. 705) that "a very important element in woolen and worsted manufacture is the erection and equipping of the mills and the comparative cost in the United States and abroad. It then furnishes detailed estimates of comparative costs, contrasting the United States and England. Differentiating between buildings, machinery, fire protection, equipment of all kinds, etc., a woolen mill with 14 sets of cards is found to cost in the United States $506,941 as against $339,854 in England, a higher cost in the United States, according to the board, of about 49 per cent.

In the case of a worsted spinning mill the increased cost rises to 67 per cent and in case of a worsted weaving mill to 43 per cent. The board admits that the machinery needed, when landed on the wharf in this country will cost from 60 to 65 per cent more than in England and that about 87 per cent of all machinery is imported. As the machinery represented about one-third of the total cost of building and equipping the plant, this item alone accounts for much the greater part of the additional expense of a fully equipped plant. The tariff on machinery is thus allowed to figure as a fundamental proposition in the cost of carrying on the industry; nor do we find any suggestion or estimate as to how much would be saved to the business if this entirely unnecessary element of expense should be eliminated. The fact that this element of cost, due to excessive outlays for fixed capital

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caused by high-tariff duties, is cumulative and runs throughout the estimates of the board can be realized by an examination of the tables in the report. Although there is no explicit statement that the cost of production is figured upon a basis which recognizes this outlay as permanent, it is plainly conveyed in the statement that the higher cost in the United States for machinery and buildings is a "very important element" in the outlay called for.

LABOR COSTS.

Analyzing the problem of labor costs in the United States and elsewhere for the various products which are taken under consideration, accuracy can be secured only by investigations covering a considerable period of time. The board, however, has obtained either costs, taking them from the books of the mills, for comparatively short periods, or else estimated costs on samples. These methods of working imply that it has not been positively known whether the amount laid out for labor represents approximately a normal percentage of total cost. Very large variations in the costs of different classes of products are found by the board. These are frankly explained on the ground that in some cases the mills were running full time, while in others they were not.

Where they were not running full time, the labor cost was necessarily a different percentage of the total than when the mills were running full time. In the latter case a larger sum of money was paid in wages and a larger number of units of product were manufactured than in the former, yet practically the same sum in each instance was expended in overhead charges, rent, interest, fixed expenses, etc. Thus, the relation between overhead charges and labor cost was materially altered, and the percentage of labor cost to total output was necessarily made to appear different in the two cases. The board states that in order to meet this difficulty it adopted the plan of assuming that mills were running on full time with a normal total output.

Such an assumption is not necessarily correct, and leads to serious errors which could be avoided only by securing costs over a normal period of actual production. In England, where the costs for tops, yarns, and cloths were obtained almost entirely by the sample method, it was, of course, impossible to know anything about the relation between the cost on a basis of full-time production and that on part-time production. On the assumption that mills were running on full time the tendency is to lessen the percentage of labor cost in the product, provided the figures extend over a period long enough to show the actual relationship between labor cost, capital, and material cost. That is to say, if costs were obtained from a mill running full time, other mills working only part time being disregarded, labor cost would undoubtedly be shown as a relatively smaller allowance per unit of output. Where, however, costs are figured on the sample basis, the assumption that the mill ran more time than it actually did, necessarily implies the payment of a larger sum in wages than is actually the case, while outlays for fixed expenses remain the same in the one instance as in the other. The abstract relationship between outlays for fixed capital and outlays for labor, on a basis of full-time production, therefore, tends to increase very materially the percentage going to labor.

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Thus assume, for example, that a given sample of cloth is presented to a mill making it, and the mill is asked to furnish costs relating to the sample on the basis of a day's production. It may be assumed that the capital cost or fixed charges of the plant for a year are represented as 300, while labor costs are represented as 500, and raw material as 200, a total of 1,000 units of outlay. In this case labor outlay constitutes one-half of the cost of operating the plant over a specified period. Now, assume that these figures are obtained as result of experience, which shows that the mill is idle one-fifth of the time. If the mill ran full time, there would be a corresponding increase in outlay for raw material and labor, but not for capital costs. Now, if samples were used as a basis for cost analysis on a specified date, the relative proportions of labor, raw material, and capital costs would be different from those which would exist when a period of idleness was involved. The labor cost would assume a much larger proportion of the total expense than it would under the other circumstances. Throughout the board's figures there is an effort to give labor costs in some detail and to make it appear that the differences in labor cost between, say, England and the United States, are an important reason for differences in cost of production. Thus figures are frequently submitted to show the importance of labor cost and the fact that labor is much more expensive per unit of product in this country than it is in England or the continent.

RAW-WOOL SCHEDULE.

In preparing the figures showing cost of raw wool the board has adopted the plan of ascertaining value of improvements and equipment, depreciation, losses, expense of operation, and receipts. Then the receipts are deducted from expenditures and the remaining balance is divided by the number of pounds of wool secured from the flock to which the expenditure applied, the result being a figure designated as the net charge against wool per pound. This is then taken as the basis for estimating the competitive position of the woolgrower. It is evident that anything which would alter the allowance for expenditures or the receipts would materially alter the ultimate figure used as the net charge against wool. This calls, therefore, for a careful analysis of the sources of income and expenditure with a view of ascertaining how far different elements are of importance in connection with the conclusions arrived at. Such an analysis shows that the chief items of receipts are those from wool, and "from other sources." A comparison of the figures shows that in very many cases the receipts "from other sources" are much larger than those from wool. Consequently, there is a much larger opportunity in these instances for varying the income through changes in prices affecting other classes of products than changes affecting wool.

For example, in Table 18 (p. 364), which gives the results of a study of about 30,000 pounds of wool in the Ohio region, the total receipts "from other sources" were $11,326, against receipts from wool of $6,859. This made a total of $18,185, of which more than 60 per cent came "from other sources." Thus it is clear that slight changes in the price of mutton, alterations in freight rates and the like, might fundamentally alter the net charge against wool at almost any time. In other

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words, the showing of net charge made by the board, however correct it may have been at the time it was computed, is not correct for any other date, and is subject to modification and alteration of an extensive character.

INVESTMENT IN FLOCKS.

Although the board gives the cost or net charge against wool without reference to the allowance for capital, or, as they express it, "interest not included," the amount of capital invested per head is given in the form of a series of estimates (pp. 315–325). These show wide variations in the amount of investment, and the rate of income on capital is figured upon the basis of the capital per head, as shown in the column which has that caption. It is clear that the conclusions to be drawn as to the percentage of remuneration now being received by the woolgrower are based upon this statement as to the amount of capital invested. This explains why the returns of the board show, in many cases, so low a relative lack of income, or even a distinct loss which is presented as a minus quantity in the column headed "Rate of income," and which seems disproportionately great because of supposedly large investment.

The question of the degree of correctness of the figures concerning the capital invested per head is, therefore, of considerable interest, if a fair conclusion as to the degree of profitableness of the industry is reached. The board states (p. 313) under the head of "Income on investment," that "the investment per head of sheep has been determined by dividing the total investment, exclusive of lands, by the size of the flock. The investment in land has been excluded because of its widely varying significance in different sections and even among flock owners of the same section." To this is added a statement that "in the western United States the prevailing rate of interest varies from 8 per cent to 10 per cent; in Australia from 4 per cent to 6 per cent, and in South America from 5 per cent to 6 per cent." This is an apparent effort to show that the cost of getting capital in the United States is higher than either in Australia or South America.

An important feature of the discussion is the fact that the valuations assigned to the capital invested are, in many cases, necessarily estimates, based upon the worth of certain elements of capital, as valued from the standpoint of earning power. The large investment of capital in the sheep industry is, therefore, more or less the result of estimate or imagination. It is dependent upon the return that could be realized by the use of the capital supposed to be employed there, if it were to be turned into some other channel. Very little attention need be given, therefore, to the question of the rate of return on capital invested in the sheep industry, particularly as the figures given by the board show a variation from losses of 25 per cent to profits running as high as 35 and 40 per cent.

ANALYSIS OF EXPENSES.

The expense of raising wool is figured under different groupings already suggested, including miscellaneous costs and costs of labor, forage, shearing, and selling. A study of the tables (p. 315–332) indicates that expenditures for labor were in many cases a very small

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percentage of the total outlay, while expenditures for forage, although sometimes greater than those for labor, were also a relatively small percentage. Thus, a summarization of Table III (p. 318) showed for 807,775 sheep, yielding 5,459,088 pounds of wool, a labor cost of $494,498, a forage cost of $311,731, and a miscellaneous expense of $754,784, or a total expense of $1,561,013. This shows that about one-half of the expenditures figured in the raising of wool are not specified for the several flocks reported, but are grouped as miscellaneous. Such a condition is found generally throughout the tables of the report. That being the case, it is not possible to form an accurate idea of the methods employed in securing the results, since it is not practicable to determine how the miscellaneous expenses have been made up, or how far the items included are correctly computed in the various cases studied. The danger in the situation is seen when the board attempts to work out the net credit to or the net charge against a pound of wool.

So wide a discrepancy would be obtained by changes in the forage figures, designed to adjust the cost to forage prices on the farm, and to market prices, that the board feels constrained to present two series of estimates, one showing the net charge against wool on the basis of the market price of grain and hay, and the other the net charge against wool when the grain and hay used have been taken at the average cost of production of such grain and hay. The theory in the first case is that, since the farmer could sell his grain and hay at the market price, he should be allowed such market price when he used them in his sheep-raising enterprises—a theory which was accepted by the board in connection with the wood pulp and paper inquiry. The other view is that the charge for grain and hay should be on the basis of average cost, inasmuch as the cost of raising sheep is a continuous process, and the grain and hay produced on the farm are merely items in that process, and might or might not have been sold at the actual market price.

The fact is that not all farmers either buy or raise the whole of the forage they need, but they buy some and raise some, so that the question of actual cost of these items in the production of sheep can not be correctly measured on either basis. Nor can it be correctly ascertained by averaging the two, since there is no basis for arriving at such an average. It must be concluded, therefore, that the figures of the board leave the inquirer uninformed as to the proper basis of charge against wool for cost of production, since they do not establish any basis for figuring the actual cost of production in such a way as to bear analysis. This alone indicates that the presentations made by the board can not be regarded with confidence. That the board has taken the net charge against wool as established on the basis of cost of production of grain and hay does not necessarily show that the cost of production has been underestimated, since it is not known how the cost of production of such grain and hay was established. So far as can be ascertained, the board throws no light upon the plan followed in computing this result. The only explanation afforded on this point is as follows:

The value of the harvested crops fed to the sheep has been estimated in two different ways. * * * By the method commonly used by most farmers the sheep

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are charged with the market value of the crops as representing the price which they would have brought the owner had he sold them and which he would have had to pay had he been obliged to buy them. Probably most of these flock owners, however, grow such harvested crops as they feed to their sheep, and since the allowance of the market price may involve either a profit or a loss on their production it is deemed fairer to use the actual cost of growing the hay and grain in order to eliminate intermediate profits or losses. By this method the sheep are charged only with the cost of raising these crops in the locality concerned during the year under consideration. This was determined by an investigation by the Bureau of Statistics of the United States Department of Agriculture, and the figures so compiled are used in the subjoined tabulations.

Unfortunately it is not possible to judge of the accuracy of the statistics given by the board without knowing the method pursued in estimating the cost of production. No data are furnished in this connection.

If, however, it be true that the board has obtained the correct cost of producing hay and grain, the profits in farming must be very large (if market prices are correctly stated). Computing the expense of wool production at the market price of hay and grain, 37,734 pounds of wool given in Table 13 (p. 357) would average 58 cents per pound, while computing it at the average cost of production of grain and hay, it was found to be 40 cents per pound. This would be a difference in the net charge of 45 per cent. If a shift from cost of production to market price, or vice versa, which affects expenses covering only one-fifth of the total outlay, could produce so great an alteration as this in the costs, a presumption of serious doubt is raised as to the accuracy of the figures.

FAILURE TO SEPARATE WOOL COSTS.

It has already been noted that the board has not definitely separated wool costs from the other costs involved in sheep raising. This is frankly admitted by the board in connection with the figures supplied as to the net charge against wool. It is stated (p. 313) that "we have considered wool as the chief product and the receipts from mutton are offset against costs." Again (p. 313), "The receipts from wool, minus the net charge against or plus the net credit to a pound of wool, constitute the net income of the business; and the percentage which this sum bears to the capital invested is the rate of income on the investment." It is clear from this that any cause which changes the selling price of mutton necessarily changes everything that has been stated with respect to the cost of wool, which is thus made dependent not upon actual money costs but upon the market prices realized for an entirely distinct commodity which is necessarily raised in connection with the wool, the cost of which is in question. The analysis made by the board in this connection implies two distinct features of the situation which should be considered in ascertaining the meaning of its figures. (1) The board's study shows that numerous changes are occurring in the United States in regard to the demand for mutton and the price received for it, and these indicate that sheep owners who are disposed to raise the mutton-type of sheep can convert their industry into a much more profitable undertaking than those who insist upon raising merino sheep.

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This is indicated by the fact that the crossbred sheep, returns for which were studied in the Middle West and Southwest, were found to pay the cost of the support and management of the flock before anything had been realized from wool, so that the income from wool was clear gain to the farmer. There is nothing to suggest that the same type of sheep raising should not be introduced in Ohio with a consequent reduction in the cost of producing wool. (2) The changes, according to the board, which are taking place in the price of mutton in foreign countries will inevitably alter the conditions examined there, determining the costs of producing wool. As the board states (p. 343), "the decline in the profits of wool production has, however, been accompanied by an increase in the demand for mutton, resulting from the fact that the production of pork and beef has not kept pace with the growth of population. And at the same time the development of refrigerating facilities has made it possible for the flock owners of countries, which, like Australia and South America, are far from the centers of population, to market their mutton." Again the board states (p. 346), "in Australia the receipts from mutton constitute a much smaller proportion of the receipts from other sources. This is partly due to the fact that the great sheep runs of the interior are unfavorably situated as regards marketing but in a larger measure to the fact that these growers place greater emphasis on the production of wool than on that of mutton and run their flocks accordingly."

Finally the board says that—

> Should the industry cease to expand, the receipts from other sources would be very seriously reduced and the loss could be repaired only by developing the mutton side of the industry, which would involve modifications of the flock and the finding of a market.

It would appear, then, that in the United States there is a much better position for an increased income from the flock through sales of mutton than there is in Australia, and what is true of Australia is also true of South America. A western farmer in the United States is advantageously placed for sending his sheep to market, and for raising the mutton type of sheep, at least in certain portions of the wool region. The Australian producer of the interior is not only not very well situated for the purpose of getting his mutton to market, but he also has to bear the heavier expense of refrigeration. In addition, the mutton of the United States is protected by substantial tariff duties, against which the foreign grower, if he wishes to sell in the United States, must compete.

The inference is apparent that from the increase in prices paid for mutton, the sheep industry of the United States will tend in the future to rely more and more on this element of income, and less and less on that which comes from the sale of wool.

It is worth while to note that in the western, or "Territory" wool region, the States which show a very high cost of production or net charge against wool, are those in which the mutton type of sheep has been relatively little developed. The board's figures indicating cost of production or net charge against wool (p. 331), show that the highest costs in the Territory region are those in Idaho, Wyoming, and Montana. The board's analysis of the composition of the flock (p. 348) shows that in Wyoming among the rams of the flocks, 63 per cent were of the merino type and 37 per cent of the mutton type, while among

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the ewes, 90 per cent were of the merino type and 10 per cent of the mutton type. In Montana, 42 per cent of the rams were of the merino type and 58 per cent of the mutton type, while 55 per cent of ewes were of the merino type and 45 per cent of the mutton type. The lowest cost of production reported by the board in this region was that for the State of Washington, where the wool was practically clear gain. In that State 82 per cent of the rams were of the mutton type and 18 per cent of the merino, while all of the ewes were of the merino type. As stated by the board:

> The importance of the merino blood in the three great wool-producing States of Australia is indicated by the following percentages:
>
> In New South Wales about 85 per cent of the rams and 90 per cent of the ewes are pure merinos. Of the remaining sheep, while some are pure-bred sheep of the mutton type, by far the larger part are crossbred with a merino foundation. In Victoria, which is the chief mutton-producing district of Australia, 84 per cent of all the sheep are either pure merinos or crossbreds with a merino foundation, and in Queensland 96 per cent of the sheep are pure merinos.

Summing up, the board finds it impossible to separate costs of wool from costs of mutton, so that no positive conclusions can be drawn with reference to the future development of costs, unless both are considered in their relation to each other. Considered in that way, the net charge against wool in the future, if figured on the same basis as employed by the board, will be largely influenced by the showing made regarding mutton, consequently, it is reasonable to expect an increase in advantage for the western United States over the more distant countries, from which the exportation of fresh meat is more costly and difficult.

CRITICISM OF TOP STUDY.

The data for cost of tops were obtained by the board through the use of a form, "Schedule 2, Top making," the appropriate part of which is found on pages 631-632. On this form returns were sought regarding raw wool and other stock used, etc., price per pound, total cost of stock, and cost per pound of tops. Credit for noils and wastes is then given, and a provision is made for a net total. In the second part of the schedule space is given for data on sorting, blending, scouring, carding, combing, dyeing, and general expense. This gives the total conversion cost, and added to the cost of stock gives total manufacturing cost. Pounds of material entering into each process, productive or direct labor used, nonproductive or indirect labor used, department materials used, total cost, and cost per pound of tops are shown for the items in the second part of the schedule. In assembling the data from the various schedules the board finds the first difficulty in that the data it obtains are not comparable. It notes that the term "top maker" may be used in two ways, the one applying it to a merchant who purchases raw wool and sells tops to worsted spinners. He may have a plant of his own for combing the wool or have the combing done on commission.

The second definition regards the top maker as a manufacturer who makes tops as an intermediate process in the manufacture of yarns and woolens. The difference in the two instances is that in one there may be a profit for an independent operator, while in the other there may be a loss. Another element of difficulty in the comparison is that "in foreign countries wool combing is done very largely on

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commission, and there are great establishments whose sole business is the turning of the wool for their customers into tops and noils for a given fixed charge." This is done only to a limited extent in this country, the more general practice being to make the tops in the woolen mill itself (p. 640). Admitting the attending difficulties, the board says that "there are certain costs which inhere in the one method and not in the other" (p. 640), while "the commission rate for combing would under normal conditions cover not only interest on the plant, but whatever profit the comber is able to make besides" (p. 640). Moreover, the board has found difficulty due to the fact that the cost of manufacture differs materially with the character of the wool. Finer wools require more careful treatment in scouring and also a slower speed of the machinery, thereby reducing the output and increasing the cost per unit. It is, therefore, as the board admits, "difficult to tabulate figures giving an average which can be taken as representative, since the variation in the qualities of tops made is so great."

A third difficulty is found in the fact that the proportion of tops and noils secured from the process differs considerably per pound of tops. Charges for commission combing in England differentiate the charges according to these relative percentages, the charge increasing as the proportion of noils increases. Again, difficulty is found in getting at costs as a result of the difference in output. In one mill the average cost for all tops (covering a six-month period) was 4.28 cents per pound, while for another six-month period in the same mill the average cost was 9.37 cents per pound. This difference was due to the fact that during the first period the output was three and one-half times greater than in the latter period, when a part of the machinery was idle and the fixed and overhead charges continued the same. The board has therefore attempted to estimate the costs so far as possible on a basis of running full time; but this must be erroneous in many instances, particularly so when the attempt is made to institute comparisons between conditions in different countries. Although the board presents (p. 642) a series of actual returns showing the cost of producing tops in this country during successive periods at given mills, it does not apparently accept this statement as representative or final. On the contrary, it states that in taking the actual figures on a large output it is impossible to separate labor costs according to the exact quality of the tops (p. 642).

On page 643 is given a table showing the cost of making a very fine quality of tops, and on page 644 is given the cost of combing in a continental plant running on fine Australian merinos and South American crossbreds. Apparently, then, the returns in this plant should have been comparable with those in the American plant or plants represented on page 643. In the latter table the cost of converting choicest Australian wool into tops was $0.0732 per pound, while in the continental plant the highest cost of combing was set down as $0.04459. In spite of this relationship the general conclusion is reached that "the cost of making tops in the United States is about 80 per cent greater than abroad," notwithstanding that the bulk of the tops discussed by the board are of the finer quality which cost only 55 to 65 per cent less to produce in England than here, the lower grades of tops being entirely excluded under the present prohibitive tariff, so that no basis of comparison can be obtained. The general criticism upon the top study, therefore, must

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be (1) its lack of reduction to a comparable basis; (2) its failure to get standard costs on standard qualities in the United States, or to show the cost of converting an actual sample of Australian wool, or other wool, into tops in England and in the United States. The figures on tops are, in a very high degree, variable and conjectural, being at best little more than an approximation to the facts, and practically admitted to be such by the board.

The fact that in not a few instances a variation of as much as 100 per cent in the production costs is noted, not only for a definite article in a definite place but at two different periods of time, should make it impossible to accept any of the figures given by the board for cost of production of tops as at all definite or final. There is consequently no statement about the cost of making tops that can not be paralleled by another statement from the report in support of an entirely different cost and entirely different conditions of doing the work.

INCONSISTENCY BETWEEN COSTS AND PRICES OF TOPS.

In addition to the statistical difficulties which arise because of the top costs furnished by the board, ground is afforded for doubt regarding the cost figures by observing quotations of prices given by the board in Volume I (p. 106). The board states that "there are no regular quotations of top prices in the United States" (p. 105); and then gives English quotations (p. 106). These quotations presumably afford a basis for figuring corresponding values in the United States with due allowance for duty. The quotations given for tops of specified quality are shown in the following table:

TABLE 1.—*Quotations in England for tops.*

[From the report of the Bradford Chamber of Commerce, published by Tariff Board, p. 106.]

Quality.	1908	1909	1910	1911 [1] (January-November).
	Cents per pound.	*Cents per pound.*	*Cents per pound.*	*Cents per pound.*
Thirty-twos	14.7-24.8	20.8-25.4	24.8-27.9	24.8-27.4
Thirty-sixes	15.2-25.9	21.8-26.4	25.9-28.9	25.4-28.4
Forties	16.2-26.9	23.8-28.4	28.4-30.9	25.4-29.4
Forty-sixes	19.3-28.9	26.9-33.0	33.5-35.0	28.4-32.4
Fifties	28.4-34.0	33.0-41.6	39.5-43.6	33.5-38.5
Fifty-sixes	34.5-46.6	38.0-47.7	46.6-49.7	39.5-44.6
Fifty-eights	.....	44.6-52.7	50.2-54.8	42.6-48.7
Sixties, super	41.6-51.7	46.6-56.8	53.7-58.3	49.7-54.2
Sixty-fours	43.6-54.2	49.2-57.8	54.8-59.8	50.7-55.8
Seventies	47.7-55.8	50.7-58.8	57.8-62.9	51.7-57.8
Eighties	54.8-60.8	58.8-63.9	60.8-64.9	56.8-61.8

[1] Quotations for 1911 from the Wool Record. In each case they are for "colonial tops." Thirty-twos, thirty-sixes, forties, and forty-sixes were "prepared" tops.

From this it is seen that the cost of number 32's runs as low as 25 cents per pound, the designation of the tops as "32's, 40's, etc.," indicating the count of yarn to which it would spin if worked up. While the board observes that "No hard and fast table of equivalents can be made of the English and American terminology for top (and yarn) qualities," it says that 64's to 70's may be taken as the equivalent of fine tops in the United States. In 1911 the prices for these qualities, as given above, ranged from 50.7 cents to 57.8 cents at

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Bradford, and with free wool it might be assumed that the cost in the United States would be the same plus the difference in cost of production between the two countries. This, however, would not appear to be the case, as shown by a study of prices of raw wool and cost of making tops, as furnished by the board.

It would seem that the prices in England are considerably higher than indicated by the board's study of wool and tops. If, for example, it be assumed that scoured wool is worth 50 cents a pound, it would appear that the cost in England must be at least 54 cents for this grade, and could fall below that only through declines in the price of raw wool sufficient to make up for the difference. Inasmuch as the figures given by the board vary considerably from this price level, the duty required on tops of a given grade can not be considered at all stable or fixed, since the percentage relation is likely to be thrown out of adjustment by changes in the value of wool. Moreover, there is no exact table of equivalents between English and American top and yarn qualities. Hence the comparative cost figures given by the board for tops can in themselves be only approximate. As the board says (p. 106), "Wool varies so widely in quality, both with the locality where produced and with the breed and condition of the sheep on which grown, that any comparisons of qualities must be approximations." As a matter of fact, the quotations given in Table 1 for such yarns as 32's at Bradford are so low as to be far below the average price of raw wool in the United States, independent of the cost of manufacture into tops. Yet the board furnishes data on the relative cost of production of No. 32 yarns from tops, apparently assuming that there is a competitive basis upon which comparisons may be made between the two countries.

STATISTICAL CRITICISM OF YARN MANUFACTURE.

The Tariff Board notes that the investigation into the cost of worsted yarns involves the securing of the actual book figures from mills for a given period of time showing the total quantity of yarn produced, the variety of counts, the average count, and the total expenditures for the same period. These expenditures were analyzed in order to put the different mills on a comparative basis as to overhead charges. The board also obtained the use of tables employed by worsted spinners relating to the cost of making different counts of yarn, and finally estimates were secured on the cost of making certain qualities of yarn. There seems to be no reason for doubting the responsibilty of these figures under the conditions that are described. The board, however, admits that it is beyond possibility to get figures on a uniform basis. It says that "a mill running full time or overtime can produce much more cheaply than a mill running half time, * * * a mill making worsted yarns in the gray is able to work more cheaply than when yarn is made from dyed tops." In order to overcome the first of these difficulties, the board assumes that all costs are to be figured on the basis of full normal output.

This gives a basis of comparison which does not overcome the difficulty that figures vary widely for other reasons, notable among which is the fact that mills do not work on the same qualities of tops and yarn. The adoption of full normal output as a basis of comparison, therefore, does not help materially, since no allowance

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is made for variations in the proportions of different classes of yarn manufactured. The board admits this, stating (p. 646) that "variations are found to appear not only according to variations in actual output due to general business fluctuations, but also according as a mill is producing just those yarns for which it is especially equipped." If the market demand of the moment requires the production of either higher or lower counts, the costs on these will be correspondingly increased. Moreover, the fact that the cost of making a given count of yarn varies with the quality of wool from which it is made, and with the weight of the roving, renders the matter of comparison difficult. All these points are fully acknowledged by the board (pp. 646, 647) as injuring the comparative basis of its computations. There is no reason to believe that the figures obtained by the board, or the figures that could be obtained by any similar organization, would show conditions on a comparable basis, either between mills in different parts of the United States or between mills here and mills abroad. They must be taken as being simply representative of costs under the particular conditions that happen to prevail at the time when the board made its investigation. Furthermore, it was not possible for the board to obtain comparable figures in England, for the reason that the interest charge was included in the English figures, but not included in the American. An allowance was subsequently made for this difference, but it does not appear to have been sufficient to cover the whole variation in the basis of the estimate.

INCOMPLETE YARN COSTS.

The inquiry was not sufficiently extensive from the statistical point of view to furnish an adequate analysis of the cost of producing different yarns. On page 648 are given figures for costs in ten different kinds of two-ply yarns 28's, 32's, 36's, 38's, 40's, 42's, 44's, 46's, 48's, and 60's. None of the coarser or of the finer yarns are given. When figures for England are given, they are not obtained on a comparable basis, but relate only to two-ply 24's, 28's, 32's, 36's, 40's, and 50's, as shown in the following table:

TABLE 2.—*Comparative conversion cost of making certain counts of worsted yarn from tops*

[Tariff Board Report, p. 650.]

Ply and count of yarn.	United States.	England.	
	Excluding interest. (Cost per pound of yarn.)	Including interest. (Cost per pound of yarn.)	For commission work, including interest and profit. (Cost per pound of yarn.)
	Cents.	*Cents.*	*Cents.*
2/24	10.86	5.6	6.6
2/28	12.62	6.6	7.6
2/32	14.48	8.1	9.1
2/36	16.61	9.6	10.1
2/40	17.99	10.6	12.2
2/50	24.67	13.7	15.2

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It should be noted that in this table the costs of conversion per pound of yarn of certain grades enumerated are in one or two instances quoted at cost rates, which are not the same as those computed in the detail table on page 648. The figures in Table 2 appear to show a cost in the United States which is almost double that in England, notwithstanding that interest was included in the English costs and not in those of the United States. There is no statement as to whether the comparison is based upon mills which are running full time in both countries, nor is there any specification as to the character of the wool used in each case. The figures given, therefore, for the cost of converting tops into yarn are largely not comparable, as admitted by the board, and are so, not only from the standpoint of quality of yarn used, but apparently also from the standpoint of conditions of production, full time or part time operation, and others. In the few cases where material is given for the manufacture of yarn of one single count from different grades of wool, no comparative figures are furnished to show English and other foreign costs.

Thus on page 647 is given a table intended to illustrate variations due to changes in the quality of the material and the twist per inch. In those cases where a single quality of yarn—two-ply 30's—was being produced from half-blood wool, it appears that the total expense per pound was about 0.099 cent, while in making the same ply and count from quarter-blood wool, the cost was about 0.114 cent per pound. In the first case the yarn was No. 13, and in the latter case it was No. 14. Thus was indicated a difference of 0.015 cent, or about 13 per cent of the higher cost involved in making the yarn from quarter-blood wool. It is clear that a variation of 13 per cent in the cost of making yarns, according to the wool from which they were spun, is one that should be allowed for in figuring the differences in cost between the United States and England in the later tables prepared for that purpose. Nothing of the sort has been done there, however, but the assumption throughout these tables is that in each case the manufacturing operation has been carried on with the same class of wool or tops as was employed in the competing country. This failure to put the two countries upon a comparative basis would alone be sufficient to impair very seriously the basis of estimate.

There is further reason to question the validity of the figures obtained in England because the data there secured were obtained on a basis of samples. As the board says (p.650) "figures of cost were secured in England from various manufacturers on actual samples." After they had thus been obtained on the basis of samples (of yarns) the returns were averaged, and the figures given "represent the average of these various calculations." As seen in the United States study, average figures of this kind, even when based upon full data for the mills to which they relate, are necessarily unsatisfactory, because they do not show, and probably can not be made to show, the cost of production carried on under similar conditions. Still less could there be this degree of comparability when the figures were made up from samples, as the furnishing of cost data on such a basis would be largely conjectural, nor could it be known how far English manufacturers were reckoning upon the same fullness of operation, uniformity of processes, and general similarity of conditions, found by the board in its American study to be essential to any accurate investigation of the cost figures for comparative use.

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It does not seem, therefore, that the yarn figures furnished by the board are likely to be necessarily representative of the actual manufacturing conditions in American mills for any very considerable production, or for any very considerable period of time. When it is considered that there was still less uniformity and inclusiveness of information in the English inquiry, the conclusion must be drawn that the analysis, particularly in its comparative features with reference to yarn costs, has been quite unsatisfactory.

INCONSISTENCY BETWEEN YARN COSTS AND PRICES.

In Volume I of the board's report is given the following table in which is presented quotations in England for worsted and hair yarns:

TABLE 3.—*Quotations in England for worsted and hair yarns.*

[From report of Bradford Chamber of Commerce and the Wool Record, published by Tariff Board, p. 114.]

Quality.	1908	1909	1910	1911 (January-November).
Worsteds:	*Cts. per lb.*	*Cts. per lb.*	*Cts. per lb.*	*Cts. per lb.*
Two-thirty-twos, worsted	27.4-38.5	31.9-38.5	39.5-43.6	37.0-43.6
Two-forties, worsted	32.4-44.6	38.5-47.7	48.7-52.7	45.6-52.7
Thirties, super luster	38.0-48.2	38.0-43.1	43.1-45.1	44.4-46.9
Thirties, super demi	25.4-40.6	31.7-41.8	41.8-44.4	39.9-45.0
Thirty-sixes, super demi	.....	37.3-47.2	47.2-50.2	.....
Thirty-sixes, demi	33.5-47.2	.....	.....	47.9-51.2
Single sixties, botany	60.8-73.5	64.6-74.8	73.5-83.7	71.0-76.1
Two-forties, botany white	.....	65.9-75.0	.....	.....
Two-forty-eights, botany	.....	.....	71.0-77.1	69.0-76.1
Two-sixties, botany white	61.8-75.0	.....	75.0-81.1	77.1-82.1
Mohairs and alpacas:				
Two-thirty-twos, mohair plush	.....	.....	66.9-67.9	63.9-66.9
Two-thirty-twos, mohair low quality	.....	.....	56.8-58.8	56.8-58.8
Two-forties, mohair medium	.....	.....	83.1-85.2	86.2-87.2
Single twenty-eights, alpaca	.....	.....	56.8-59.2	52.1-58.6
Single twenty-eights, alpaca low	.....	.....	48.5-49.7	43.8-48.5

This shows that worsted yarns, 2/32's, were in January, 1911, quoted at from 37 to 43.6 cents per pound, or an average of about 40 cents per pound. On page 648 (Vol. III) of the board's report the cost of converting tops into 2/32's is given as 14.48 cents per pound. As the report states on page 650, that the costs of turning tops into yarn is about twice in the United States what it is in England, the cost of making this kind of yarn in England should have been about 7.24 cents. This would make the cost of the yarn material, on a basis of 40 cents per pound, 32.76 cents per pound. This would be far below the average scoured-wool price of Australian wool or fine wool of any kind. The board's data are admittedly given with reference to medium and high medium grades, employed in the making of cloths. The yarns from 2/28's to 2/60's cited on page 648 are given as "medium and high medium worsted yarns," and on page 113 it is stated that "30's to 40's are comparatively coarse yarns, while 40's to 56's are medium."

The difference in the price quotations as compared with figures for cost and the apparent discrepancies in nomenclature raise doubts as to the accuracy of the board's figures on one or both of these sets of returns. It appears, therefore, that the figures furnished by the board for yarns are not substantiated by the yarn prices cited in the first volume of the report. Thus, for example, on page 648

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the cost of converting 2/60's from tops into yarn is given as about 32 cents, while the mean quotation of these yarns in England averaged about 80 cents in 1911. Deducting 16 cents, the cost of conversion in England, as indicated by the board, there would be left 64 cents as the cost of the tops actually entering into a pound of yarn. This cost would apply to considerably more than a pound of tops, because of the waste which has already been noted. Yet the quotation for tops given as "60's, super," is stated on page 106 as ranging from 49.7 to 54.2 cents, the mean being about 52 cents—12 cents less than the cost of the tops entering into a pound of yarn. If the board is right in saying the shrinkage in converting tops into yarn amounts to 4.5 per cent (credit being allowed for wastes recovered), the shrinkage on a pound of tops for conversion into No. 60 yarn would not be more than 3 cents at most, in which case the tops plus cost of shrinkage would be 55 cents, instead of 64, the figure obtained by taking the quotations for yarns and subtracting conversion costs in order to work out the material value entering into the product. It might be assumed that, whereas the board's figure for conversion is a cost figure, the prices taken from English quotations are selling rates in the market, and can not be exactly compared. This objection has little validity, because of the fact that the analysis just made is based on prices for yarns and prices for tops, and the allowance for profit must be about the same in both cases, so that the difference may be estimated on the basis of approximately the difference in cost.

TABLE 4.—*Yarn quotations and conversion cost for worsted yarn.*

[Cents per pound Tariff Board Report, pp. 114, 648, and 650.]

Two-ply worsted yarn (count).	Mean quotations at Bradford, January-November, 1911.		Difference between tops and yarn	Conversion.	
	Tops.	Yarn.		United States.	England.
Thirty-twos	26.1	40.3	14.2	14.48	7.24
Forties	27.4	49.2	21.8	17.98	8.99
Forty-eights	.....	72.6	.....	23.35	11.68
Sixties	52.0	79.6	27.6	31.81	15.91

In Table 4 is given a column showing the quotation furnished by the board for yarns of various counts from 32's to 60's. From this is deduced a column of differences showing the amount that was added to a pound of tops of a given description by converting it into yarn. It is seen that in case of 32's, the average price was 26.1 cents for the tops, while for the yarn it was 40.3 cents. This seems to indicate a difference of 14.2 cents as the approximate cost of converting the tops into yarn. In Table 2, which is taken from the board's report (p. 650), the cost of converting tops into yarn is given as 8.1 cents, or for commission work, 9.1 cents, as against the 14.2 cents, deduced from the actual quotations. It is interesting to observe that the cost figure for the United States on this same yarn (Table 2) was 14.48 cents per pound, or not far from the cost in England, indicated by the difference of comparative prices. It might be assumed here again that the board's cost figures are for cost and not for price, but that objection does not apply to the

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charge for commission work, which in this case is given as 9.1 cents per pound, while moreover all of the English figures are given "including interest," so that they ought to correspond with the highest market charge for yarns of that particular ply and count. On the whole, therefore, it would seem to be an inevitable conclusion that the figures furnished by the board for yarn prices do not correspond to or substantiate those which it has furnished for yarn cost.

CRITICISM OF CLOTH DATA.

The criticisms made with reference to yarns and tops become much more serious when attention is directed to the cloth-manufacturing analysis of the board. The board not only concedes the impossibility of securing data as to the comparative costs by processes of making fabrics, but also the extreme difficulty of getting comparative figures even on fabrics. This is because (p. 627) "there are no absolute standards in the cloth trade, and each mill turns out a great variety of different fabrics." Moreover, it was not possible to get mills abroad to give costs on the same basis as in the United States, because they do not keep their books upon the same plan. It is found, therefore, that the board almost wholly dismisses the cost method of analysis when it comes to fabric costs. Instead it submits samples of given fabrics to the mills and permits them to give estimates on the cost of making these fabrics, based upon experience with similar operations, but largely conjectural, because in many instances, probably in the majority, the mills had never devoted themselves to manufacturing the particular kind of cloth on which they were asked to furnish cost estimates. As special reasons for distrusting the figures supplied through this sample inquiry, therefore, may be mentioned the following:

1. The question of uniformity and amount of output is fully as important in connection with the manufacture of cloth as in yarns and tops, yet the method pursued makes no allowance whatever for such differences and necessarily could not do so subject to the conditions under which the inquiry was conducted.

2. There is no indication as to the origin of the wool used in the various fabrics and whether it was imported into the United States or whether it was the product of domestic sheep and was worked up at prevailing prices without the payment of duty.

3. There could be no ascertainment of the extent of profits allowed to intervening factors; as, for example, the granting of profits on tops, yarns, etc., to persons who supplied these intermediate products to the mills that made the cloth, as compared with the conditions prevailing in plants which made their own tops, yarns, etc., and then used them in cloth manufacture.

4. In many cases it was found that different methods of production were followed in the United States and abroad, the goods being differently dyed in the countries compared and a different number of looms operated in some instances in foreign countries, as compared with the number operated by the employee in American mills.

These factors alone would render the data obtained untrustworthy, because they would indicate that it was impossible to obtain figures upon a distinctly comparable basis. In the absence of such a comparative basis, about all that could be said for the figures as to cloth costs at the best would be that they represented probable

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costs of making the cloths under varying conditions in American and European mills, these varying conditions including differences in character of machinery and speed thereof; amount of work done in the mills as compared with total capacity; character of raw material used; and source from which intermediate products, such as tops, yarns, and the like, were obtained. Even if, therefore, it should be admitted that the board's figures for tops and yarns obtained by the method of aggregate returns were trustworthy, it could not be admitted that the figures for cloths were similarly trustworthy, and least of all could it be conceded that these figures were in position to be compared with those of the earlier products obtained by the other method referred to. This produces a separation between that part of the board's report which has to do with the earlier products and that part of the report which deals with cloth. There is no foundation, either actual or professed, for considering the figures given as furnishing a complete analysis from tops up to cloth, because of the entire change of method employed in the study of cloth costs.

EXTENT OF COST INQUIRY IN WOOLENS.

One of the principal questions to be considered in connection with the manufacturing investigation of the board is the extent and reliability of the inquiry. The board opens its statement with the assertion that "in the course of the wool and worsted inquiry, agents of the board visited 188 different mills" and that of these 174 furnished verified information. These mills are considered to be "representative of the industry in this country," because they include practically two-thirds of its productive capacity and employ 64 per cent of the total number of persons engaged in the business.

The assertion that an inclusive inquiry has been made should be subjected to very careful scrutiny. In spite of the large number of mills visited, the board concedes its inability to secure general returns with respect to cloth. It notes that there is no possibility of discussing the cost of cloth in general because of the great variety of different fabrics, which renders such an investigation in general terms absurd. It then takes up (p. 626) the question whether or not results could be obtained by a study of processes, but it finds that this is practicable only with a certain few.

A statement of costs obtained by this method, says the board, "would be utterly meaningless" as applied to cloth, and "the same is true of worsted yarns." Only by a process of prorating various charges can anything satisfactory be obtained in yarn. In regard to cloths, even this method was found to be impossible, and therefore the board was driven to the ascertainment of costs of cloths by submitting samples to manufacturers and obtaining from them cost statements relating to these particular samples. It is evident that this sample method is entirely different in principle from any of the methods suggested by the board for the ascertainment of costs in the more elementary processes of top and yarn making, and others related thereto. What the board has to say about the cost of manufacturing wool into products of various kinds may, therefore, be discussed under two heads—the one the reliability of the sample method of analysis, the other the satisfactory or unsatisfactory character of the study made of the more elementary processes.

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STUDY OF SAMPLES.

Turning attention first to the question of samples, it is found that the board divides its sample analysis into two different groups of results. The first deals with American and foreign costs on fabrics made in the United States; the second deals with foreign-made goods of the kind imported. In the first groups analysis is made of 55 different items, data as to each of which were obtained from American and English mills, while in some cases further information was had as to French and German mills. In the second group 14 samples are analyzed for costs.

It is clear that in this analysis the factors to be taken into account are (1) how many mills were consulted with reference to the cost of these samples; (2) how representative were these mills? On these points the board throws no light whatever. It states that, after a schedule had been prepared for the analysis of costs, "our agents then visited the mills with specific samples and worked out with the proper officials the cost under each separate process. In practically all cases they were given complete access to the books in order to see by what method particular charges were made and to satisfy themselves that the estimated costs entered were based on the actual costs at the mill. By this detailed analysis by processes the estimates came as near to the actual costs as the mill itself was able to make them." In getting the foreign cost "the method adopted * * * was similar to that used in this country."

The citations make it evident that the sample study was not a study of actual costs at all. It was a collection of estimates as to the cost of making cloth at various mills, many of which had never made the cloths in question. In getting foreign costs it was possible only to obtain the same conjectural material. The report states (p. 630) "samples of identical fabrics cut from the same piece were taken to England and to the Continent. These were shown to a number of manufacturers and their estimates on the cost of production secured." They were then tested by being submitted to a cloth manufacturer, who checked them from his own experience. The only light thrown by the board on the character of the mills consulted abroad is the statement that they were "mills of high efficiency" (p. 630). So far as can be ascertained, the board does not state whether the mills consulted in the United States were or were not mills of similar high efficiency as compared with other American mills. This makes it obvious that the board did not in any case obtain figures for actual costs from a considerable number of manufacturers in its sample investigation; that it did not obtain comparative figures, even in the mills which were consulted, for cloth of kinds which they were in the habit of producing; that it did not obtain figures abroad in this part of the investigation, on fabrics made abroad, but only theoretical estimates on cloth produced in the United States; that it does not make clear in its report whether the foreign figures and American figures were produced from mills of similar relative degrees of efficiency or not. There is no reason to suppose, therefore, that anything was obtained in this investigation which might not have been obtained in a quite different form and with figures leading to a very different conclusion had mills been consulted, and different fabrics and more exact

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modes of comparison been employed. The sample investigation can not, therefore, be regarded as throwing any general light upon costs, since obviously the system itself is based upon no general data.

AD VALOREM OR SPECIFIC DUTIES.

Much attention has been given by the Tariff Board to the method of levying duties.

The board admits the unfortunate effects of the present specific rates on raw wool, and notes that "various wools of heavy shrinkage can not be profitably imported into the United States," while it also comments (p. 381) on "the practice abroad of preparing and selecting the light-shrinkage sorts that are peculiarly suitable for the American trade." After describing the proposed ad valorem rate, the graduated specific duty on the scoured content, etc., it finally decides against the ad valorem plan and in favor of the specific rate on the scoured pound. With reference to the ad valorem mode of levying duties, it states that "the economic objection to an ad valorem duty on wool arises from the fact that the amount of duty paid, since it fluctuates with the foreign value of the commodity, would not be adjusted to the needs of the Government, of the consumer, nor of the American wool grower. A speculative change in the market which increased the price of wool would automatically lead to an increase in the amount of duty at the very time that the manufacturer is most hampered by the existing high price, when the consumer most needs relief, and the wool grower is most prosperous."

That the real question in the mind of the board does not, however, relate to the consumer can be seen from the latter remark that "if the basic idea of the duty on wools is to give the domestic grower permanent protection it should remain as uniformly effective as possible under all changes of foreign conditions (shortage, overproduction, etc.). Ad valorem duties would not accomplish this * * *." It is the supposed inability of the ad valorem duties to give what the board calls "permanent protection" that condemns them in its sight. As for the remedy suggested by the board—the levying of duties on the scoured wool content—the contention that "some method of assessing a specific rate on the clean content would remedy most of the primary faults of Schedule K" (p. 398) is answered by Edward Moir, president of the Crown Mills, Marcellus, N. Y., in a recent letter to the Daily Trade Record, as follows:

The board states that ad valorem rates are open to grave difficulties from the administrative and revenue point of view in the case of a crude and bulky commodity like wool.

Further, that ad valorem rates would give a high duty per pound when prices are high at a time when the consumer most needs relief and the producer more able to bear competition. With the low price of wool, the duty per pound would be low when the consumer has least need of competing wools and the producer is least able to bear competition.

I believe the statements of the board as to the effect of ad valorem rates not being easily collectible comes from their lack of knowledge of wool in its various conditions. Other men who are very familiar with wool say that the values of wools can be readily determined and the proper duty easily collected, and I have been assured by officials high in the customs service that such is the fact; also, that it would simplify the work of the customhouse if all wools were assessed by value.

The board says an ad valorem rate would give a high duty per pound when wool is high and a low duty when wool is low. This follows as a natural sequence of the law of supply and demand, yet the following paragraph, in which is given a plan said to

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be better in the opinion of the board than by ad valorem rates, for the assessing of wool duty, would have the very same objection.

That the chief objections to the present rate on the grease pound could be met by levying some form of specific duty based on the clean or scoured content of the wool imported.

If a specific rate on the clean pound is adopted, it will work out in this way, as shown by table appended, and for the purpose of illustration I will take 20 cents per clean pound as the flat rate of duty:

Wool costing clean—	Per cent.
20 cents per pound, duty 20-cent rate	100
30 cents per pound, duty 20-cent rate	66⅔
40 cents per pound, duty 20-cent rate	50
50 cents per pound, duty 20-cent rate	40
60 cents per pound, duty 20-cent rate	33⅓
70 cents per pound, duty 20-cent rate	28⅔

The range in price from 20 to 70 cents per pound clean, used in the above table, is conservative. Why the board should recommend a method of assessing the duty upon wool that shows a variation of 350 per cent in the rate of duty passes my comprehension. It is true that this method is only one-half as objectionable as the present method, seeing it equalizes on the shrinkage, yet does not on the value, as the table shows. An ad valorem rate would place all on the same footing and lay a proper foundation for an equitable duty upon goods in place of the present inequitable one.

One can not but think that this recommendation, which the board has made, must be considered as due to want of technical knowledge on the part of its members of the varying conditions and qualities of wool, and the various fabrics these wools are suitable for making. It would appear to be an error creating a tariff board whose members have had no business experience in the branches of trade upon which they are expected to report and offer recommendations upon. It would have been much better for the board to have confined its work to the gathering of statistics on the different schedules than to suggest methods that, if adopted, are not only inequitable but will work hardships to different branches of the woolen business.

The objection by the board that an ad valorem duty has the effect of increasing the duty when wool is high and lowering it when wool is cheap abroad is not well taken. As when wool is cheap abroad, the home manufacturer should get his raw material on a parity of value with the foreign manufacturer or he can not compete.

The only way I can see any force to this contention of the board's is that it simply had the woolgrower in mind when recommending a method of assessing the wool duty by specific rate per clean pound in the hope that such might insure to the grower a high price when wool is cheap abroad and a still higher price when it is dear. The board seems to have left out of consideration the necessity of the home manufacturer being put in a position to compete with the foreign manufacturer, who has cheaper wool, due to a falling market. Besides, the consumer certainly should have some benefit in the price of commodities due to this market condition of the raw material.

Interpretation of Tariff Board's Report.

A. RAW WOOL.

Raw wool in Schedule K of the tariff law is divided into three classes. Class I is described in paragraph 361, Class II in paragraph 362, and Class III in paragraph 363. The duty on wools of Class I is fixed at 11 cents per pound, on wools of Class II at 12 cents, and on wools of Class III at 4 and 7 cents per pound, according to value. In the event that the wools are imported washed, the duty on the first class is twice as much as if imported unwashed. If imported scoured, the duty is three times that on unwashed wool. The duty on wools of the third class, if imported in condition for carding, is three times that on unwashed wool. In dealing with raw wool the board treats the three classes separately, recognizing the difference in source, the conditions under which produced, and the amount of production.

1. Third-class wools.—The board points out that practically no wool of the third class is produced in the United States. This wool is derived from a variety of sources fully considered (pp. 413–437),

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but the United States is not recognized among these sources except in a very limited manner. In the words of the board, "There is very little wool of Class III now raised in the United States" (p. 437). Reviewing the history of the industry, the board further states (p. 437): "Twenty-five years ago there were 6,000,000 or 7,000,000 pounds of wool of a carpet grade grown in some of the Western States and Territories, but it has been estimated that not more than a half million pounds of this domestic wool is now sold annually to carpet mills." Apparently this is intended to say that not more than a half million pounds of this domestic wool is annually produced in the United States at the present time. As the total annual production of wool of all grades in the United States within recent years is about 325,000,000 pounds, it is seen that the amount of carpet wool can not, under the board's statement, amount to more than about one-seventh of 1 per cent of the total wool output of this country. In view of the large demands for these wools from manufacturers of carpets and coarse woolen goods, it is evident that this class of wool does not require the protection of 4 cents per pound given it by the present tariff law. On the authority of the board it may be stated that the production of third-class wools in this country is so limited as to be a negligible quantity and that the necessity for protection may, therefore, be disregarded.

2. Second-class wools.—Of the other classes of wool the board says (p. 299): "The great bulk of the wool grown in this country would, if imported, fall under Class I." The wools produced in the United States are not strictly comparable with those of foreign countries, and the board concludes (p. 382), that there is no reason for maintaining a distinction between first and second class wools. In the meantime, however, such a distinction is made in the tariff law, and in effect the board recognizes it in its discussion. The board further states that about two-thirds of the wool grown west of the Missouri River is "fine" or "fine medium," while about 25 to 30 per cent of that east of the Mississippi is classed as "fine." The territory devoted to woolgrowing in this country is separated by the board into two divisions. In the first division (Class A), is included all the States west of the Mississippi River except Minnesota, Iowa, and Missouri. In the second division (Class B), is placed the States of Minnesota, Iowa, and Missouri, and all the States east of the Mississippi River. In the region designated as Class B, there are two well-defined sheep-raising regions; the one comprises Ohio and portions of adjacent States, the other the remainder of the territory east of the Mississippi River. In the Ohio region there are about 5,000,000 sheep, which produce a fine grade of merino wool. In the remainder of this "class" there are found about 10,000,000 sheep, whose wool is below fine merino grade, and may be properly described as "crossbred." Throughout a territory in the west, containing about 35,000,000 sheep, the cost of producing fine wool is found to be about 11 cents per pound. The cost in the East (Ohio) is stated to be about 19 cents per pound, while in the remainder of the territory east of the Mississippi it appears that "the net charge against the wool grown on sheep of the crossbred type is negligible." This statement is borne out by the figures of Table 19 (pp. 365–368), covering returns of 135 crossbred flocks.

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Of these crossbred flocks (p. 372) 121, or 90 per cent, "show receipts from other sources which equal or exceed the receipts from wool, and on an average for all these flocks the receipts from other sources constitute about two-thirds of the total receipts." This, moreover, is an exceptionally unfavorable showing, as the board states (p. 373): "Of the 10,000,000 crossbred sheep a considerable part are kept under such conditions as to yield larger profits than do the crossbred flocks considered in Table XIX of this report." However, the general conclusion is reached that "for the crossbred flocks of this region as a whole the receipts from other sources are quite sufficient to meet the total costs of maintenance, and therefore the receipts from wool remain as profit." From this it may be fairly concluded that wools of the kind which compete with the output of these crossbred sheep do not need protection. This is clear from the fact that the wool income from these flocks is a clear profit, there being no charge whatever against it. It may, therefore, be safely concluded from the board's report that Class II wools also do not require protection, inasmuch as the cost of production is zero. As already noted, the board says (p. 382): "Practically all of the domestic clip, if offered for entry at our ports, would fall under Class I of the existing law. That is to say, the great bulk of the wool grown in the United States shows the use of merino blood, either immediate or remote, in its production. Imports under Class II are relatively unimportant and there is no longer valid reasons for the maintenance of the distinction as between English and merino wools so long in force." It is further stated (p. 384): "There is an enormous quantity of wool produced in Australasia and South America known in the trade as crossbred that has practically no equivalent in our domestic production." The comparison already made is, however, as near as can be drawn—although it is true that most of the domestic wools show the use of some merino blood in their production. In a table (p. 385) the board recognizes their comparability by a direct comparison between domestic wools grading one-half blood and under, and foreign crossbred wools.

3. *First-class wool.*—The real question in the wool schedule of the tariff act, in the opinion of the board, is the production of the western wools of fine merino quality. On page 301, under the caption "Where competition centers," the board says that in Wyoming, Montana, Oregon, and Idaho there is a staple wool which corresponds with some of the best Australian wools, and it is there that the study of cost of production has apparently been most carefully made. It is noted that the "Delaine wools of Ohio, Pennsylvania, etc., are claimed to be the strongest wools of merino blood raised in the world, etc."; these are the wools which later in the report (p. 377) are shown to be obtained from about 5,000,000 sheep at an estimated cost of 19 cents per pound. On this small quantity of wool a special tariff protection would presumably have to be recommended by the board to safeguard it from competition. Omitting this portion of the fine-wool production, since, as noted by the board, the conditions are peculiar, the sheep being maintained for "general purposes" rather than primarily for their wool, attention will be concentrated on the western woolgrowing region, where, according to the board, "competition centers." Although the board has mentioned only the staples of Montana, Wyoming, Oregon, and Idaho as directly competing with

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the Australian, and although it admits that fine and fine medium wools constitute only 66 per cent of the total production of the western region, it may be assumed, for the sake of discussion, that the whole of the western region is to be regarded as devoted to the production of fine and fine medium wools, and, therefore, on a competitive basis. On page 330 of the report there is given a tabular statement showing by States the number of sheep studied in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The total number of sheep so studied is 3,151,731, and these yielded 20,764,713 pounds of wool in the grease. The net charge against wool in this region is 10.9 cents per pound, while the average selling price is 15.9 cents per pound, a difference of 5 cents between the cost and selling prices. Considering only the States producing the very finest staple, namely, Wyoming, Montana, Oregon, and Idaho, the situation is not materially different. In Idaho an unusually high cost, 17.3 cents per pound, was reported, in Montana the cost was 13.8 cents, in Oregon 10.9 cents, and in Wyoming 12.4 cents per pound. The average returns from Montana, Wyoming, and Idaho show a net charge against wool of 14.2 cents per pound. The remaining eight States of the group show an average charge of 8.4 cents per pound. In discussing the competitive conditions of production of wool, we may speak first of the western region as a whole, where woolgrowing is carried on as an independent industry, and we may subsequently consider these States as producing a special type of wool on an independent basis.

The following table appears on page 330 of the board's report, except the addition of columns showing the per cent of shrinkage, the scoured-wool yield, the net charge, and the value or price per scoured pound.

TABLE 5.—*Showing, by States, total receipts and expenditures, capital per head, selling price of wool per pound, and net charge against wool per pound, of flocks investigated by Tariff Board in the western United States; also the shrinkage and fine washed wool content of the grease wool.*

State.	Number of sheep.	Pounds of wool.	Receipts.		
			Wool.	Other sources.	Total.
Arizona	180,254	1,181,882	$184,211.65	$246,923.23	$431,134.88
California	115,192	994,687	145,018.66	198,881.05	343,899.71
Colorado	333,526	2,110,189	300,363.13	402,245.42	702,608.55
Idaho	377,919	2,340,483	424,567.47	708,954.48	1,133,521.95
Montana	514,987	3,515,417	649,455.46	568,063.24	1,217,518.70
Nevada	163,255	1,011,046	153,810.31	321,792.64	475,602.95
New Mexico	442,142	2,613,976	364,350.12	508,043.29	872,393.41
Oregon	229,713	1,678,993	237,000.35	272,476.51	509,476.86
Utah	265,645	1,901,436	330,782.52	424,186.13	754,968.65
Washington	61,574	391,776	46,540.70	133,420.00	179,960.70
Wyoming	467,524	3,024,828	475,739.44	599,652.89	1,075,392.33
Total	3,151,731	20,764,713	3,311,839.81	4,384,638.88	7,696,478.69

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TABLE 5.—*Showing, by States, total receipts and expenditures, capital per head, selling price of wool per pound, and net charge against wool per pound, of flocks investigated by Tariff Board in the western United States; also the shrinkage and fine washed wool content of the grease wool*—Continued.

State.	Expenditure.			
	Labor.	Maintenance.	Miscellaneous and selling expense.	Total.
Arizona	$141,612.16	$26,566.15	$204,216.08	$372,394.39
California	63,477.17	93,256.82	113,755.55	270,489.54
Colorado	198,695.23	88,642.45	299,268.32	586,606.00
Idaho	258,826.93	364,205.34	491,558.27	1,114,590.54
Montana	278,993.71	275,320.64	501,514.10	1,055,828.45
Nevada	123,372.41	59,341.56	180,901.47	363,615.44
New Mexico	245,427.12	79,138.02	402,783.58	727,348.72
Oregon	129,025.90	143,723.14	183,571.01	456,320.05
Utah	182,114.75	100,875.54	318,869.68	601,859.97
Washington	45,342.10	38,293.92	47,465.27	131,101.29
Wyoming	336,991.56	168,455.18	471,887.22	977,333.96
Total	2,003,879.04	1,437,818.76	3,215,790.55	6,657,488.35

State.	Net charge against wool per pound.	Selling price per pound.	Capital per head.	Rate of income on capital.	Per cent of shrinkage.[1]	Scoured wool yield (pounds).	Net charge per pound scoured.	Value per pound scoured.
Arizona	$0.106	$0.155	$5.64	5.8	67.25	387,066	$0.323	$0.473
California	.071	.145	5.18	12.3	67.25	325,760	.217	.442
Colorado	.087	.142	4.59	7.6	67.25	691,087	.265	.433
Idaho	.173	.181	6.13	.8	67.25	766,508	.528	.552
Montana	.138	.184	5.57	5.6	67.25	1,151,299	.421	.561
Nevada	.041	.152	6.08	11.3	67.25	331,118	.125	.464
New Mexico	.083	.139	4.56	7.2	67.25	856,077	.253	.424
Oregon	.109	.141	4.92	4.7	67.25	549,870	.332	.430
Utah	.093	.173	5.79	9.9	67.25	622,720	.284	.528
Washington	+.005	.118	4.58	17.3	67.25	128,307	+.015	.360
Wyoming	.124	.157	5.19	4.0	67.25	990,631	.378	.479
Total	.109	.159	5.30	6.2	67.25	6,800,443	.332	.485

[1] Report, p. 383.

This table now serves as a foundation for an analysis of the competitive strength of the fine-wool producing region of the United States as compared with foreign countries. A comparison based on the grease pound would be misleading, because wools are found to shrink in different proportions. The competitive capacity of a region is dependent upon its ability to produce a certain quantity of scoured wool at a specified price. The manufacturer is not primarily interested in the grease-pound charge, but in the cost of the wool ready for spinning. This point is freely admitted by the Tariff Board, of course (p. 382), though it does not directly relate its data as to shrinkage with its production cost of grease wools.

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In connection with the study of shrinkage made on page 383 the board presents the following table:

TABLE 6.—*Amount and per cent of shrinkage of clean wool resulting from scouring specified grades of fine wool having their origin in given localities.*

	Eastern United States, in United States mills.	Western United States, in United States mills.	South American.		Australian.	
			In United States mills.	In foreign mills.	In United States mills.	In foreign mills.
Pounds in grease	4,202.813	46,996.576	1,288.666	8,846,401	11,067,147	29,967,258
Pounds scoured	1,709.002	15,390,892	674.755	3,550,597	5,730,238	12,937.911
Per cent of shrinkage	60.00	67.25	47.64	59.90	48.22	56.82

The following table from page 385 of the report throws additional light on the subject of shrinkage:

TABLE 7.—*Amount of clean wool and per cent of shrinkage resulting from scouring foreign crossbreds and domestic wools grading one-half blood and under.*

	Eastern United States, in United States mills.	Western United States, in United States mills.	South American.		Australian, in United States mills.
			In United States mills.	In foreign mills.	
½ blood and under (domestic wools):					
Pounds in grease	9,101.974	.....	.....	.....	.....
Pounds scoured	4,858.984	.....	.....	.....	.....
Per cent of shrinkage	46.62	.....	.....	.....	.....
½ blood:					
Pounds in grease	.....	15,917,633	738,711	3,720,225	4,467,078
Pounds scoured	.....	6,003,731	373,482	1,670.291	2,540,609
Per cent of shrinkage	.....	62.28	49.44	55.01	43.13
⅝ blood:					
Pounds in grease	.....	3,213,783	4,215,956	.....	1,995,100
Pounds scoured	.....	1,483,743	2,785,513	.....	1,252,492
Per cent of shrinkage	.....	53.83	33.93	.....	37.26
¾ blood:					
Pounds in grease	.....	1,510,985	12,537,310	27,394,408	145,267
Pounds scoured	.....	785,474	8,379,071	17,431,779	102,557
Per cent of shrinkage	.....	48.09	33.17	36.44	29.40

In Table 6 above is set forth the per cent of shrinkage undergone by western United States wools when scoured in United States mills, and the wool thus treated is stated to be "fine wool." This shrinkage figure, stated as 67.25 per cent, is used in computing the fine scoured-wool yield of the grease wool actually studied and reported upon by the board in the western United States. The board gives the net charge per pound against wool in each of the States enumerated, and in ascertaining the cost per scoured pound this amount is multiplied by the number of pounds of grease wool necessary to produce a pound of scoured wool at the rate of shrinkage indicated. This shows, in each of these States, the investment in grease wool necessary to secure a pound of scoured wool. If the sale price of the wool in grease is applied to the number of pounds necessary to produce a scoured pound, the result is the price paid at current rates during the period of investigation for sufficient grease wool to produce a scoured pound. The average cost of the wool studied was 33.2

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cents per pound, based on the shrinkage percentage of 67.25, and the average price when scoured was 48.5 cents per pound. On the basis of the board's investigations, therefore, these figures represent the competitive situation in the fine-wool district of the West, which, as the board has expressed it, is the section "where competition centers."

We may now turn to the question of the competitive strength of the Australian wools which compete with the fine wools of our Western region. The interesting point is not the price at which these wools are sold in Australia, but that which is paid for them in American mills. On pages 387–390 is a table showing "A record of actual importations and scourings in a representative American mill covering more than 10,000,000 pounds of Class I wool." This amount is about one-half of the amount considered in the tabulation for the Western States. If limited to the Australian merino wools less than 5,000,000 pounds have been included. Since approximately two-thirds of the total output of the western region is fine and fine medium wools, and the other third consists of wools somewhat comparable to the crossbred wools of Australia—grading half-blood or below—all of the Australian wool given in the board's record of actual imports and scourings at a representative American mill, may, therefore, be included.

The results thus secured show that, taking all of the wool, the average price paid per scoured pound was 50.8 cents, while for the fine merino wools, the price paid per scoured pound was about 50 cents. This figure should be compared with the one already obtained for the western region, which shows an actual cost per scoured pound of 33.2 cents, and an actual realized price paid per scoured pound of 48.5 cents, assuming the total output to be of merino origin. The figures show that entirely independent of the payment of tariff duties on the importations of Class I wool, the American industry was in a distinctly competitive position. Comparing the fine merino staples raised in the Northwestern States of the United States, including Idaho, Montana, Oregon, and Wyoming, with the merino wools for which figures are given, it appears that the cost of the fine staples in the United States was 13.7 cents in the grease, or 41.8 cents scoured, and the realized price paid was 16.9 cents in the grease, or 51.5 cents per scoured pound, while the price paid for the Australian merino by American mills was over 50 cents per pound. This appears to show that, with freight rates included, the western wool-raising industry is fully able to hold its own against the Australian staple.

In the preceding computation, as already noted, the shrinkage was 67.25 per cent, which is the rate quoted by the board for fine wools of the West. As elsewhere shown in the board's report, the Territory wools consist of about 66 per cent of fine wool and 34 per cent of the lower grade product. A fairer basis of computation might be found in the use of the shrinkage percentage computed as a weighted or true average inasmuch as the various grades of wool shrink in different proportions. Such a weighted or true average has been worked out upon the basis of the board's figures for fine wools and wools of one-half blood, three-eighths blood, and one-fourth blood. This shrinkage percentage is 64.32, which may be taken as the general shrinkage of

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Territory wools. In the following table a computation is presented showing the same comparison except that in this instance the percentage of 64.32 is used instead of 67.25 per cent.

TABLE 8.—*Showing by States net charge per pound against Territory wools.*

States.	Wool (pounds).[1]	Per cent of shrinkage.	Equivalent scoured wool (pounds).	Net cost charge per scoured pound.	Value per scoured pound.
Arizona	1,181,882	64.32	421,695	$0.297	$0.434
California	994,687	64.32	354,904	.199	.406
Colorado	2,110,189	64.32	752,915	.244	.398
Idaho	2,340,483	64.32	835,083	.484	.507
Montana	3,515,417	64.32	1,254,300	.386	.515
Nevada	1,011,046	64.32	360,740	.115	.426
New Mexico	2,613,976	64.32	932,666	.232	.389
Oregon	1,678,993	64.32	599,064	.305	.395
Utah	1,901,436	64.32	678,431	.260	.484
Washington	391,776	64.32	139,785	+.014	.330
Wyoming	3,024,828	64.32	1,079,258	.347	.440
Total	20,764,713	64.32	7,408,841	.305	.445

[1] Report, p. 330.

Protection and the price of raw wool.—It is not necessary, however, to depend solely upon the figures given by the board for the cost of producing raw wool, or the "net charge against raw wool" for conclusions as to the amount of protection needed by the wool industry in the United States. The board has not only given the figures relating to costs in the region studied, but has also investigated the prices of raw wool in leading markets. It is shown that the price realized for wool in the western wool-growing region, including the States of Arizona, California, Colorado, etc., was 15.9 cents per pound. If the shrinkage of this wool be taken at the figure, 67.25 per cent, given by the Tariff Board (p. 383), it will appear that the actual scoured wool costs approximately 48 cents per pound. This represents the cost of wool which must be purchased in the grease at the rate mentioned by the Tariff Board, as actually realized by the sellers of the wool, in order to supply the buyer with a pound of scoured wool ready for manufacture.

In Volume I of the board's report (p. 65) is presented a table, taken from the bulletin of the National Association of Wool Manufacturers, showing the total wool product of the United States for 1910. This table shows that the scoured value of all wool produced in the United States in the year 1910, aggregating 321,362,750 pounds and yielding 141,805,813 pounds of scoured wool, was 51.12 cents per pound. Practically no wool of the third class was produced in the United States in 1910, but the product of the year is composed of first and second class wools, while in the far West region, the product is largely fine wools. The table shows that the value of the output in Nevada is 54 cents per scoured pound; that of California, 46 cents; that of Colorado, 47 cents; that of Arizona, 53 cents; and that of Texas, 55 cents, etc. Local and seasonal variations will always occur, but we may accept the figure already cited from the cost of production report—15.9 cents per pound, giving a scoured value of about 48 cents per pound—as corresponding substantially to the market value. Else-

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where the board has presented the quotations of American wools in Boston, giving the so-called "territory wool," of which we have been speaking, as the product of Montana, Wyoming, Utah, etc., on a scoured basis.

The prices there given for 1910 range from 50 to 74 cents per pound according to grade, while for 1911 the prices range from 40 to 62 cents. This also confirms the accuracy of the figures already mentioned. In a study of the prices charged for Australian wools in London, the board shows that wools belonging to Class I sold in London in 1910 at prices ranging from about 16 cents to about 32 cents per pound, according to grades. In October, 1911, the range was from about 17 cents to about 44 cents (p. 34, Vol. I). In another table (p. 213, Vol. I) the board gives prices per pound for certain foreign wools in England, as reported by the Bradford Chamber of Commerce. In this table are given two kinds of Australian wools, namely, "Port Phillip" and "Adelaide." The former averaged 26.4 cents per pound in 1910 and the latter 18.3 cents. These figures are identical with those given from another source in the table previously cited, and represent the price charged for two good grades (not the best) of Australian wool, which on importation into the United States would rank as Class I. If these be accepted as representative and a mean taken, we shall have 22.4 cents per pound as the price (taken as the mean) of wool competing with our western product.

The board has made an elaborate study of shrinkage in the second volume of its report. Elsewhere we have used figures showing the shrinking of Australian wools in American mills. These figures can not be used for the present purpose, because Australian wools are imported in a skirted condition and consequently shrink less than they would if imported in their natural condition. It is necessary, therefore, to ascertain the shrinkage of Australian wools in the mills to which they are sent for shrinkage in a natural condition. The board (p. 387) states that the shrinkage figure for total wool production of all countries given by Helmuth, Schwartze & Co., is universally accepted in the trade and names 48.54 per cent as that of Australasia. In its study of actual shrinkage in the United States it shows that Australian wool shrinks 48.22 per cent (p. 383). If we accept the figure 48.54 as representing the shrinkage, it will appear that the figure 22.4 cents, which we have already given as the assumed mean price of Australian wools competing with our western wools, must be divided by 51.46 (or 100 minus 48.54) in order to find the value of the wool in a scoured pound. This computation gives 43.5 cents.

Previous figures have shown that scoured wool from western fleece may be taken as worth 48 cents per pound. The difference, then, is 4.5 cents (assuming that freight rates to the mills offset one another), and this must be reckoned as an ad valorem rate on 43.5 cents, which would give a result of about 13 per cent ad valorem, the protection apparently demanded by western wool producers, assuming the figures we have given to be correct. It is clear that in the case of the more expensive Australian wools there would be no advantage whatever. This is shown by the figures of the Tariff Board representing the actual importation and scouring in a representative American mill covering more than 10,000,000 pounds of Class I wool. Considering the figures given for Australian merinos, it

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is found that about 50 cents per scoured pound was paid, so that the Australian wool cost the producer actually more than the western wool; or, allowing 2 cents a pound freight on the western wool to the mill, something like the same price, probably a little less in some cases. In this case apparently actual experience with a large quantity of wool did not indicate any necessity for tariff protection. In general, with Australian grease wool at 20 cents a pound or higher, there is little necessity for tariff protection as indicated by actual purchases in the market. At that price the western woolgrower is able to furnish his wool in successful competition on the scoured-pound basis, accepting the actual prices found in the Tariff Board's report as a basis for the comparison.

Competitive conditions.—The position of the western woolgrower compared with that of the Australian producer may be discussed without reference to prices in the market, and simply upon a basis of cost, as reported by the board. In that case it will be seen from Table 5 that a cost of about 11 cents per pound was found to exist on the average in the west, while in Australia the cost was "a few cents a pound" and in South America "4 to 5 cents." Taking 4 to 5 cents a pound as the cost in South America and Australia, and selecting the higher figure—5 cents—just as we have selected the higher figure—11 cents—from the board's report, there is found to exist a disadvantage in the United States of about 6 cents per pound on grease wool. This supposedly represents the amount by which the net charge against wool in the United States exceeds the net charge against wool in South America and Australia. The comparison, however, has not taken into account cost of transportation. The subject of transportation is discussed by the board in Volume II (pp. 351, 352), where it appears that "$2 a hundred pounds is believed to be a fair estimate for the average cost of transportation of grease wool from the west to Boston," while (p. 352) "the cost of transportation from the Australian producer to Boston ranges between $1.84¼ and $3.191."

The average cost of transportation of Australian wool is thus about $2.50 a hundred pounds, or one-half cent more per pound on the Australian wool than on the western American wool. We may, therefore, regard the western American woolgrower as suffering a disadvantage, not of 6 cents a pound but of about 5½ cents. If it be assumed, on the basis of the board's shrinkage figures (p. 385), that the total shrinkage of western wools in the United States mills grading one-half blood and under is the average of the shrinkages given for the different grades, we shall have a shrinkage of 54.96 per cent. Our 5½ cents, therefore, will represent the cost of 45.04 per cent of the disadvantage we suffer in the production of a pound of scoured wool. The total disadvantage will then be about 12.2 cents. Accepting the prices given in the board's table for actual importations of Australian wool, and prices paid therefor (pp. 387–389), we may again take the value of a scoured pound of Australian wool at an American mill as 50.8 cents. In that case 12.2 cents reckoned as an ad valorem upon the value of the imported Australian wool would be nearly 25 per cent, or, measured in cents per pound, would simply be itself the amount of the duty called for in a specific form, namely, 12.2 cents. This apparently would be the maximum duty which could

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be demanded by the western wool producer on wools of the kind referred to under the most unfavorable circumstances. On the finer grades with a higher shrinkage this percentage would be larger, but in that case the price assumed must be a good deal higher. The ad valorem percentage would be much the same.

It should be observed, however, that a protection of 5.5 cents per pound of grease wool, or 12.4 cents per pound of scoured wool, would amply protect most of the States included in the western region. There would be very few of them in which the cost of production is so high as to require a protection of 5.5 cents per grease pound This result may be exemplified as follows: Let the net charge against wool in South America and Australia be taken as 5 cents. The cost of production or net charge against wool reported in California is 7.1 cents. Allowing one-half cent for freight charge as before, the net disadvantage for California as a producer would be 7.1 minus 5.5, or 1.6 cents. This would be less than one-third of the 5.5 cents protection mentioned. In the same way the protection required in Colorado would be 8.7 minus 5.5, or 3.2 cents. In Nevada, with a cost of 4.1 cents net, protection required would be still smaller. New Mexico, with a cost of production of 8.3 cents, would be only at a slight disadvantage as compared with a foreign cost plus freight of 5.5 cents. Washington, which has no net charge on wool but a very slight credit to wool, would need no protection whatever. On the whole, probably not more than three or four States of the group would require protection of 5.5 cents.

In the following table is computed the net disadvantage under which the Western States labor in the production of a scoured pound of wool and the ad valorem duty which would be necessary in order to place the western woolgrower upon a basis of equality with the Australian and South American grower in the American market. This ad valorem rate is computed upon a basis of 50.8 cents for Australian wool and 37.4 for South American wool. These figures have been obtained by averaging the quotations given by the board for the actual experience of an American mill in the importation of 10,000,000 pounds of foreign wool. It should be noted that the ad valorem duties which are thus indicated vary enormously according as the price of wool varies and, of course, as the disadvantage per scoured pound varies. The difficulty in the argument is found in the fact that a uniform price is assumed for all foreign wools, whereas in fact these foreign wools consist of a series of different grades. None of the figures can be said therefore to be computed, in the strict sense, with any authority. It is observable that the average rate of protection needed to safeguard against Australian competition is about 30 per cent as shown by this table and that needed to protect against South American competition is about 40 per cent. This would seem to indicate that South America was a more dangerous competitor than Australia, a statement whose absurdity is self-evident. In this computation, as in others that have preceded, it will be observed that there are several of the Western States in which no tariff protection is needed while in several others only a very small amount is called for. The high average rate thus shown is due to the reported high cost of production in two or three States where costs are stated as abnormally high.

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TABLE 9.—*Ad valorem and specific rates necessary on Australian and South American wools in order to equalize territory wool costs.*

State.	Net charge per pound against wool.[1]		Difference in cost between United States wool and that of Australia and South America.	Total disadvantage of scoured pound on shrinkage basis of 64.32 per cent.	Average cost per scoured pound.[2]		Ad valorem rate necessary to equalize difference in cost of—		Specific rate per pound necessary to equalize difference in cost between wools of the United States, Australia, and South America.
	United States.	Australia and South America.			Australian.	South American.	Australian wool (per cent).	South American wool (per cent).	
Arizona	$0.106	$0.055	$0.051	$0.143	$0.508	$0.374	28.15	38.24	$0.143
California	.071	.055	.016	.045	.508	.374	8.86	12.03	.045
Colorado	.087	.055	.032	.090	.508	.374	17.72	24.06	.090
Idaho	.173	.055	.118	.330	.508	.374	64.96	88.24	.330
Montana	.138	.055	.083	.232	.508	.374	45.67	62.03	.232
Nevada	.041	.055	+.014	.....	.508	.374	.....	.....	.....
New Mexico	.083	.055	.028	.078	.508	.374	15.35	20.86	.078
Oregon	.109	.055	.054	.151	.508	.374	29.72	40.37	.151
Utah	.093	.055	.038	.106	.508	.374	20.87	28.34	.106
Washington	+.005	.055	+.060	.....	.508	.374	.....	.....	.....
Wyoming	.124	.055	.069	.193	.508	.374	37.99	51.60	.193
Total	.109	.055	.054	.151	.508	.374	29.72	40.37	.151

[1] Report, pp. 330, 350. [2] Based on Report, pp. 387–390 and pp. 390–391.

5. *The Ohio region.*—It will be observed that nothing has been submitted in the foregoing data on the Ohio region, which is reported as having the highest cost of production in the country, that being a net charge of 19 cents per pound against wool. This would apparently call for a much higher protection than any as yet spoken of. The board averages the 5,000,000 sheep of the Ohio region with the western sheep and the crossbred flocks, and thereby makes an average cost the country over at 12 cents per pound, a manifestly incorrect proceeding. It should be frankly admitted that on the board's estimate the Ohio region, and a very few of the western States, would need a protection in excess of 20 per cent. An average rate of protection sufficient to offset the difference in cost of production between the bulk of the western region and the foreign wool-growing countries would not help them in the least. In this connection a further point should be noted. The cost of production of wool in the Ohio region, as given by the board, is 19 cents per pound on the average. Inquiries as to shrinkage show that this wool shrinks 46.62 per cent; in other words, 19 cents is 53.38 per cent of the cost of a scoured pound.

The cost of such a scoured pound, therefore, may be taken as 35.6 cents. This must be compared with the supposed cost advantage in Australia. In the latter country, as we have seen, the cost of production may be taken as 5 cents. However, at least 2 cents must be added in this case as the freight disadvantage, because of the comparative nearness of the Ohio region to the mills. From the standpoint of Ohio, cost in Australia may be taken as 7 cents. The theoretical disadvantage in the Ohio region is thus 35.6 cents minus 7, or about 28.6 cents. Figuring this as a percentage upon the cost of the competitive Australian wool imported into the United States, which may be taken as 50.8 cents a scoured pound, on the average, it is found that 28.6 cents represents over 55 per cent ad valorem. This is very much more than the protection amounts to, accorded under the present specific basis. In the board's table

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of actual importations and scourings in a representative American mill (pp. 387–389) the equivalent ad valorems run from about 34 per cent to about 55 per cent. In a very few instances there are equivalent ad valorems as high as 55 per cent. It would seem, then, that the Ohio wool-producing region is not protected now on the assumption that the board's cost figures are correct and that, if it is to be protected at all, the tariff on wool would have to be very much raised above its present figures, so as to give a rate of 28 or 29 cents on the scoured pound and of at least 55 per cent ad valorem.

Summing up the discussion, therefore, it may be concluded that a study of comparative prices actually realized on western wools and actually paid by importing American mills, and paid at open sale in the London market, show that the western American woolgrower can meet Australian and South American competition without any protection. A study of cost disadvantages would indicate the necessity not to exceed 25 per cent duty ad valorem upon the whole wool output of the Western States, and would show that in the majority of these States a duty of very much less than this, say, 10 to 15 per cent, would be ample, while 20 per cent would completely safeguard all, except a relatively small number of sheep in the less carefully managed flocks of the West and in the Ohio region.

It should be added that there is nothing to prevent either the western or the Ohio growers from shifting to the crossbred flocks, whose profitableness in the United States has been demonstrated to such an extent as to show no net charge against the wool. From the protective standpoint, therefore, the whole question is that of imposing a duty for the mere sake of keeping a small percentage of American sheep farmers from the necessity of shifting from sheep of the merino type to those of the crossbred type.

Net cost charge per pound against wool:	
United States (Report, p. 377)	$0.19
Australian and South American	.07
Difference	.12
Total disadvantage per scoured pound on shrinkage basis of 46.62 per cent	.224
Average price per scoured pound:	
Australian	.508
South American	.374
Rate of duty necessary to equalize difference:	
Specific—	
Australian and South American	.12
Ad valorem—	
Australian (per cent)	44.09
South American (per cent)	59.89

6. *Summary of findings on raw wool.*—These findings on raw wool may be summarized as follows:

1. Class III wool needs no protection, because it is scarcely produced at all in the United States.

2. Class II wool needs no protection, because those of our wools which compete with it are produced at a very low cost of production.

3. Class I wools need no protection as indicated by actual figures of sales. As shown by estimated cost of production the needed duty would not exceed 15 to 20 per cent. A duty of 25 per cent would be considerably in excess of the requirements of production in the West that are indicated by the figures of the Board; while in the Ohio region the industry is partly at least, incidental to general farming and can not be considered on the competitive footing.

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B. TOPS.

The subject of top manufacture is discussed chiefly on pages 621–645 (Vol. III). Here are given data showing the actual yield from greasy wool of scoured wool, tops, noils, and wastes of various kinds; a discussion of compensatory duties; an outline of the methods of getting costs; and tables showing the cost of converting wool into tops in a number of American mills, whose product has been combined for the purpose of showing the general results.

1. *Wastes and compensatory duties.*—The first problem which the board has to deal with is that of shrinkage in the scoured wool used, so it seeks to ascertain what quantity of tops can be manufactured from a given amount of scoured wool. This shrinkage is then made the basis for computations of the amount of compensatory duty required. On pages 622, 623, the board says:

> The average yield of tops over a considerable period differs in typical American mills by less than 5 per cent, and the amount of this average yield is approximately 85 per cent. But a compensatory duty based on the average yield would be inadequate in the case of tops made from wool of fine quality; while, conversely, a compensatory duty high enough to take care of fine wool would be somewhat more than compensatory for tops made from the lower grades. * * *
>
> Whatever may be the yield of scoured wool in tops, that part of it that is unfit for tops is by no means a complete loss to the manufacturer. Noils are worth quite regularly 60 per cent of the value of the scoured wool from which they are made, and they form from 60 per cent to 90 per cent of the wastes that accrue in top making. Comb waste is worth practically as much as scoured wool; card waste, as a rule, much less; the two together, forming from 5 per cent to 30 per cent of the total waste, should normally bring 40 per cent of the price of an equal weight of scoured wool. In any case the manufacturer recovers in the value of his wastes fully half the value of the scoured wool consumed that does not appear in his tops.
>
> Assuming then that 100 pounds of fine wool gives 80 pounds of tops, the loss of 20 pounds reappears in the form of waste worth at least as much as 10 pounds of wool. The manufacturer therefore in this case is entitled to a compensatory duty on tops that exceeds the duty on wool by no more than 10 per cent of such duty. This is of course on the assumption that compensatory duty shall be fixed entirely on a weight basis.

2. *Method of computing tariff duties.*—The board in this discussion continues the assumption found in the existing law, that two classes of duty are necessary, the one intended to offset the loss of weight in shrinkage, the other, the differences in labor and capital between the United States and foreign countries. It is evident that in carrying out that inquiry on the basis of the board's figures, several methods may be adopted.

(*a*) *First method.*—The most obvious method of computation on this basis is as follows: According to the board, 1 pound of scoured wool produces 80 per cent of 1 pound of tops, and this would mean that 90 pounds of wool would make 80 pounds of tops, allowing for 10 pounds of recovery in wastes. Assuming that scoured wool is worth 50 cents a pound, 80 pounds of tops would cost $45, and 1 pound of tops would cost 45/80 of a dollar, or 56.25 cents. The excess cost of material for 1 pound of tops, therefore, is 6.25 cents. The board finds as a result of its investigation (p. 645) that "the cost of making tops in the United States is about 80 per cent greater than abroad." If the American manufacturer gets domestic wool of substantially the same spinning value as English wool, and at the same price, 50 cents, no allowance is needed for "compensatory duty." If comparison be made on a duti-

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able basis, we must assume the importation of wool subject to duty. While this is not necessarily the case, we may expand our assumption so as to provide that the scoured wool used in manufacture is imported at 50 cents, duty unpaid, and that this is the same price the English manufacturer pays for his scoured wool at the factory. Then, if we assume a duty of 20 per cent, for the sake of argument, on wool, it is clear that the American manufacturer will have to pay 60 cents for his pound of wool after the tariff duty has been liquidated. Now, since 90 pounds of the wool produce only 80 pounds of tops, it is evident that, at 60 cents, the cost of the 90 pounds would be $54, and 1/80 of this would be 67.5 cents. Seven and one-half cents, therefore, would be the additional pound value of the material going into the tops made from duty-paid wool.

As already stated, the excess material cost per pound of tops made of nonduty-paid wool at 50 cents is 6.25 cents. Assuming that the amount of waste is the same in England and the United States, it appears that the cost of manufacture from duty-paid wool at 20 per cent implies an additional expense of 1¼ cents, which represents the specific compensatory duty that would be needed. This would have to be reckoned as a percentage of 56.25, the presumed cost of the top material in England. It would in that way amount to 2.2 per cent. The board shows that the actual cost of manufacturing tops in the United States from Australian 70–80's is 7.25 cents per pound. Adding this to the 67.5 cents gives 74.75 cents as the cost of a pound of tops in the United States on the basis of the board's figures. In the English mills the cost of conversion is shown as about 100 per cent, and in the United States as 180 per cent. Taking 7¼ cents as 180 per cent, the cost in England would be 4.03 cents per pound. Deducting this from 7.25 cents, the cost in the United States, leaves 3.22 cents, which represents the excess conversion cost of producing tops in the United States. As an ad valorem percentage of 56.25, this gives 5.72 per cent, which, added to 2.2 per cent, the compensatory duty, gives 7.92 per cent over the duty on wool, or 27.92 per cent.

(*b*) *Second method.*—Another method of computation may be deduced from the board's work. In the passage already cited the board says (p. 623) that the manufacturer is entitled to a compensatory duty on tops that exceeds the duty on wool by no more than 10 per cent of such duty. Taking the same case we have already assumed, with scoured wool at 50 cents and an import duty of 20 per cent ad valorem, in this case equal to 10 cents per pound, the compensatory duty on tops would be the wool duty, 20%+(10% of 20%=) 2%=22%, or 10¢+(10% of 10¢=) 1¢=11 cents, a duty of 11 cents, or 22 per cent. We found that if the wool employed was actually imported from abroad and manufactured subject to the waste indicated by the board, the material in a pound of tops would cost 67.5 cents, while in England it would be 56.25 cents. The duty on 56.25 cents at the rate of 22 per cent would be 12.38, which added to 56.25 cents would be 68.63 cents, or, in this case, decidedly more than enough to cover the cost in the United States as indicated by the board. The duty required to offset the difference in labor and other costs would be the same as stated in the first method, 5.72 per cent, to which would be added the compensatory duty of 2 per cent, and the duty on wool of 20 per cent, or a total of 27.72 per cent on

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tops. It is clear that the rate of duty, by this method of computation, would change rapidly as the price of wool, duty paid, was increased.

And as the wool became more expensive, the duty required would be a smaller ad valorem percentage. In the shrinkage table given by the board (pp. 387–391), the price per scoured pound, duty paid, on the best grades of wool such as we are discussing, is very seldom as low as 50 cents, and is occasionally as high as 60 cents per pound or more. In these cases the amount of duty would fall off.

In the foregoing computation the assumption has been that the English manufacturer is able to land his tops at New York without any cost for selling charges, transportation, insurance, or commissions in the United States. That, of course, is important. The duties already sketched, therefore, are unduly high, if it be desired simply to cover cost of production. The board has shown that freight charges from Liverpool to Boston are about one-third of a cent per pound on wool.

This takes no account of shipping charges in England or from Boston inland, to say nothing of the charges for other items in the cost of marketing. It would probably be a conservative estimate if the English manufacturer were regarded as being obliged to incur an expense of 3 cents per pound for his marketing and freight charges. Such an allowance, if made, would largely offset the difference in cost of production. If, on the basis of our illustration, following the Tariff Board, it be assumed that the cost of getting out a pound of completed tops in the United States with wool at 50 cents a pound scoured, and the rate of duty at 20 per cent, was 75 cents, while in England it was 56.25 cents plus 4.03 cents, or 60.28 cents, the allowance of 3 cents a pound already referred to being then made, the landed cost (United States) of English tops would be 63.28 cents. Deducting this from 75 cents would leave 11.72 cents, which would be about 19 per cent, or less than the raw-wool duty of H. R. 11019. This would mean that a 20 per cent duty would suffice to protect the American manufacturer against the competition of English producers in tops as well as in raw wool. Of course, in this case it should be borne in mind that the 3-cent allowance would have to be made also in case of the raw-wool duty. That is to say, if 20 per cent on raw wool was protective with wool at the same price in England and the United States, a less duty than that would be necessary in practice owing to the difference in cost of transportation, etc.

(*c*) *Third method.*—Still another method of computation may be adopted, based on the board's figures. A manufacturer may buy 100 pounds of wool and manufacture it into tops. According to the board he will get only 80 pounds of tops out of the 100 pounds of wool. This would mean that the manufacturer would have to invest the cost of 100 pounds of wool in order to get 80 pounds of tops. In so doing he would obtain wastes which he could sell for something, and which the board says would be worth as much as 10 pounds of clean wool. In our former computation we assumed that the wastes had been sold at this rate. On this supposition it is evident that in order to get 80 pounds of tops the manufacturer has to buy 100 pounds of clean wool, or, at 50 cents per pound, he must invest $50. Each pound, then, of tops costs him for raw material 62.5 cents, while his competitor in England is getting his wool at 50 cents and his tops

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at presumably the same relative rate. Now, in the United States assume that a duty is imposed equal to 20 per cent. The 100 pounds of clean wool cost $60, instead of $50, and 80 pounds of tops cost the same. That is to say, each pound of scoured wool costs the American manufacturer 75 cents, while his English competitor is getting his material at 62.5 cents a pound.

The compensatory duty allowed for by the Tariff Board is 10 per cent of 20 per cent, or 2 per cent ad valorem, or 1 cent per pound. The difference in cost of labor and investment is 3.22 cents, the same as in our former illustration. This is now figured as an ad valorem of 62.5, or slightly more than 5 per cent. The specific duty under this basis of estimate then would be 1 cent plus 3.22 cents, or 4.22 cents, while the ad valorem duty would be 2 per cent plus 5 per cent, or 7 per cent. This is slightly less than by the former method because of the higher valuation given to the wool going into the tops, due to the fact that no allowance has been made for the income from the wastes. On some accounts this is a fairer basis of reckoning than the other, because of the fact that the process of manufacture requires the larger amount of wool which is indicated in this second method. Of course in this case the allowance made for freight, etc., would still have to be recognized, and would work out as before in more than neutralizing the difference in cost of production of tops indicated by the board.

3. *Study of top prices.*—The question of the duty on tops may be approached from the standpoint of prices rather than from cost of production. The board has given in the early part of its report (Vol. I, p. 106) a table showing the values abroad of specified classes of tops. It finds that 20 cents per pound is the minimum valuation for tops abroad, and that only in depressed conditions would tops of low quality sell for 20 cents or less. The lowest price given in the tables of quotations for 1910 is 24.8 cents, and the highest is 64.9 cents, the latter being a quotation for the very best grade intended for the spinning of very fine yarns. The quotation on tops intended for the spinning of so-called 64's to 70's, which correspond to what we call in this country fine or one-half blood, are the quotations which should be used for comparative purposes in the present discussion. These quotations were from 54.8 to 62.9 cents, the mean being 58.9 cents per pound. If it be true that raw wool of a given quality used for making these tops can be imported on a scoured pound basis at about the same cost from Australia into the United States as into England, it may be supposed that the price of these tops in England is less than that in the United States (no duty on raw wool) by the excess cost of production of tops in the United States. For the grade of tops considered, this excess cost of production has been found to be about 3.22 cents per pound; in other words, the cost of the same tops in the United States should be about 62.12 cents. Figuring the 3.22 cents as an ad valorem upon 62.5, gives 5.2 per cent as the necessary duty on tops, or, adding compensatory duty in the event that a raw-wool rate of 20 per cent is charged, we should have 7.2 per cent, which roughly corresponds with the showing already made for the grade discussed. If we should compute the rate on the very finest grades it would, however, fall considerably below this figure, while an allowance for freight, insurance, etc., amounting to as much as a cent a pound, would reduce

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the required protection to 25 per cent or probably much less (granting a raw-wool duty of 20 per cent).

In the following table are presented domestic and foreign costs of producing tops for every cost figure reported in the statement (p. 642), showing variations in the cost of converting wool into tops. The domestic costs are given by the board as a result of its investigations, and the foreign costs are computed on the supposition that the cost of making tops in the United States is about 80 per cent greater than abroad (p. 645). The difference between domestic and foreign costs would represent in each case the disadvantage in cost of production under which the United States labors and would therefore be the figure which should be computed as a percentage of the foreign costs of tops in order to ascertain the ad valorem rate necessary to protect the American producer.

TABLE 10.—*Variations in domestic and foreign conversion cost of wool into tops for a period of 25 months.*

[Cents per pound. Tariff Board report, p. 642.]

Quality of top.	6 months.		Difference.	6 months.		Difference.	7 months.		Difference.	6 months.		Difference.
	Domestic.	Foreign.		Domestic.	Foreign.		Domestic.	Foreign.		Domestic.	Foreign.	
Unwashed territory, one-half blood or above	5.37	2.98	2.39	7.60	4.22	3.38	8.59	4.77	3.82	10.85	6.03	4.82
Australian and domestic, one-half blood and above	4.91	2.73	2.18	6.79	3.77	3.02	7.75	4.31	3.44	10.05	5.58	4.47
Unwashed territory, three-eighths blood	4.63	2.57	2.06	6.19	3.44	2.75	7.05	3.92	3.13	8.82	4.90	3.92
Australian or domestic, three-eighths blood	4.31	2.39	1.92	6.10	3.39	2.71	6.31	3.51	2.80	8.13	4.52	3.61
Australian or domestic high, one-quarter blood	3.86	2.14	1.72	5.62	3.12	2.50	5.90	3.28	2.62	6.66	3.70	2.96
Quarter blood	3.24	1.80	1.44	4.48	2.49	1.99	4.89	2.72	2.17	6.09	3.38	2.71

4. *Summary of top study.*—(*a*) If it be assumed that the English and American manufacturers start with wool of the same quality at a uniform price, say 50 cents, the tariff duty not being fully in operation because a home supply exists, it appears that no allowance need be made for compensatory duty, and that the difference in cost of production shown by the board per pound of tops is 3.22 cents, which, computed as an ad valorem upon 56.25, the cost of the material going into a pound of tops, is 5.72 per cent ad valorem.

(*b*) If it be assumed that the wool used is actually imported into the United States, a duty is paid at the rate of 20 per cent, with no allowance for freight, insurance, etc., the difference in cost must include a compensatory element figured by the board at 2 per cent, or in this case a cent a pound, and a duty to offset the difference in cost of manufacture, equal to about 3.18 cents, which, figured on the cost of manufacture in England, gives about 5.09 per cent, and this added to the 2 per cent compensatory duty gives a rate of about 7.09 per cent over and above the raw-wool duty, or 27.09 per cent in all.

(*c*) The rate of allowance for compensatory duty will vary in ad valorem equivalents with the cost of the raw wool in England, and would probably increase or decrease as the cost of the raw wool

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increases or declines, notwithstanding top costs are lower for cheaper grades of wool.

(*d*) The foregoing figures are based upon the assumption that no allowance for cost of transportation, insurance, shipping charges, etc., is necessary. Such allowance on these accounts as is customary should be made in order to have the figures hold good in practice. It is observable that an allowance of 3 cents a pound would about offset the difference in cost, both compensatory and labor, and investment cost that has been recognized. Even if it be assumed that such costs of transportation are only 1 or 2 per cent of the value of the tops, a duty of 25 per cent (inclusive of raw-wool duty) would be ample protection.

Noils and wastes.—The board has dealt with the subject of noils and wastes incidental to the manufacture of tops, explaining the way in which these wastes originate and the extent to which they are produced in the process of developing tops from scoured wool. It is shown (p. 623) that 100 pounds of fine wool gives 80 pounds of tops, the difference being waste, which is supposed to be worth as much as 10 pounds of wool. In the process of manufacturing worsted yarns the top is converted into roving, and a waste of about 2 or 3 per cent occurs, while subsequently there is an additional waste of about 2 per cent. On the whole the board concludes that the soft wastes made in drawing and spinning are 4 per cent, the hard wastes 2½ per cent, and the invisible wastes and shrinkage 2½ per cent, so that the yield of yarn from tops would be 91 per cent. This would mean that on every 100 pounds of tops there is a production of soft wastes equal to 4 pounds and of hard wastes equal to 2½ pounds. In the process of converting yarn into cloths the waste varies considerably, running from 5 per cent to 25 per cent. The board estimates this waste at about 20 per cent of the value of the yarn from which it is made. That is to say, the gross volume of waste produced in making yarn is from 5 to 25 per cent of the weight of the yarn, while the wastes thus produced are supposed to be worth about 20 per cent, on the average, of the total value of the yarn which has given rise to them in the process of working up.

Raw-Wool Duty for Noils.

So long as a specific duty is levied upon wool and the low products of wool, the cost of production, dependent as it is upon the amount of wool needed in the manufacture of the cloth, would determine the rate of duty to be imposed. That is to say, the value of the wastes would properly be reckoned as a part of the value of the total output of the productive operation, including, as that would, tops and wastes, or yarn and wastes, or cloth and wastes. The duty would need, therefore, to be figured as a composite matter, the amount needed to protect it, granting that wastes in manufacture were equal in amount in different countries, being dependent upon the raw-wool duty, in a certain sense, although the actual figure would depend quite largely upon the demand the industries which used these wastes made for them, and so fixed their price. They can not be said to have any definite cost of production apart from that of the principal products in the course of making raw wool there brought into existence. The board has, therefore, reckoned these wastes and

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their value as constituting a deduction from the cost of producing tops from wool, yarn from tops, and cloth from yarn. Where an ad valorem system of duty is employed, the situation is different, because the necessity of computation designed to ascertain the amount and value of these wastes need not be undertaken. The wastes will be used again simply as wool.

They act as a substitute for wool in various processes of manufacture, and to that extent displace wool which would otherwise be purchased for the purpose of manufacture. This is true of noils and wool wastes generally. All that is needed, therefore, in a country which levies an ad valorem duty upon raw wool is to treat the wastes in the same way that raw wool is treated. If this were not done it would be cheaper for manufacturers to import such wastes from abroad for use in domestic manufacture. They would, to that extent, cut off the demand for domestic wastes, and the effect of this would be to lower their price in the market, to say nothing of the effect thereby produced on the manufacturing process in which these wastes were brought into existence. Inasmuch as a reduction in the value of the wastes produced in manufacture would mean an increase in the cost of carrying on the principal operation which gave rise to that, a lower duty on such wastes would amount to an infringement upon the duty by which the principal process was itself protected. In the same way, a duty on wastes that was higher than the duty on wool itself would operate to keep out foreign products of the same kind and would thereby enable the manufacturer to gain greater protection under the operation of the compensatory duty than they otherwise would have.

With ad valorem rates of duty, therefore, the indicated level of rates for the noils and wastes will be identical with the rates on raw wool. The board has nothing to say with reference to specific cost of production of noils and wastes since they are by-products as just indicated. They supply the data which could be used to work out a duty if a specific rate were desired. But their argument naturally points to the conclusion, where ad valorem rates are employed, that the duty should be collected at the same rate for wastes as for raw wool itself.

C. YARNS.

The Tariff Board has worked out the cost of making yarns in the same way as for tops, and a similar plan may be pursued in estimating the rate of duty required on yarns.

1. *Tariff duty computed.*—Continuing the illustration of wool at 50 cents per pound scoured in England, and a duty of 10 cents per pound or 20 per cent ad valorem on the wool imported into the United States, with tops thereafter costing on the basis of the board's figures, say 75 cents per pound, as against about 60 cents in England, the computation will be as follows: A compensatory duty, according to the board, equal to 8 per cent of the compensatory duty on tops. Assuming that this duty is 22 per cent, 8 per cent of it will be 1.8 per cent ad valorem. Beyond that the difference in cost depends upon the kind of yarn made, its ply and count. The board gives material on the cost of making yarn (pp. 645–650), and on page 648 enumerates the cost of converting tops into 2-ply yarns,

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for counts ranging from 28's to 60's. First taking the lowest count, it is seen from the table given that the total conversion cost in the United States is 12.62 cents per pound, while in England it is said to be about one-half, or 6.31 cents. The loss of weight in yarn making is 9 pounds per 100 (p. 624). This means that in the United States the cost of the yarn material would be $75 \times 100 \div 91 + 12.62$, or 95.04 cents, 75 cents being assumed as the cost of a pound of tops.

In England the corresponding pound of yarn would cost about $60 \times 100 \div 91 + 6.31$, or 72.24 cents. Figuring the difference in cost, 6.31, as a percentage of 72.24 cents, it is seen that the ad valorem equivalent is about 8.73 per cent, and adding 1.8 per cent for the compensatory duty would be 10.53 per cent over and above 25 per cent on tops, or in all, 35.53 per cent. This may be tested by comparing the value of yarn product resulting from a pound of tops in the two countries. We have seen that in the United States this would be 95.04 cents, while in England it would be 72.24 cents. The difference is 22.80 cents, which, reckoned as an ad valorem of 72.24 per cent, is about 31½ per cent. The same computation may be carried out on the other plan, suggested in connection with tops above, i. e., allowing for the value of recovered wastes. In that case the computation would be as follows: One hundred pounds of tops yield on the average 91 pounds of yarn, but the wastes are worth as much as 4½ pounds of tops. In other words, the material cost of getting 91 pounds of yarn equals the cost of 95½ pounds of tops. Assuming that tops are worth 75 cents in the United States, 91 pounds of yarn will cost $71.625 for material, and the unit cost will be 78.7 cents. Adding 12.62 cents for conversion, the cost of one pound of yarn is given as 91.32 cents in the United States, and by the same method 69.31 cents in England. The compensatory duty here is 4½ per cent of 25 per cent, or 1.125 per cent, and the conversion cost 9.1 per cent, or 10.225 per cent in all—a total duty of 35.225 per cent ad valorem.

In these computations again no allowance has been made for the cost of transportation necessary to put the manufacturer on a basis of competition with the American producer. If 3 cents a pound allowance were made upon the yarn value, it would work out in a somewhat different way from that in the case of tops, however, owing to the higher value of the yarn. In that case we have to reckon the cost of the yarn straight through from the raw wool to the yarn. Assuming that the cost of the tops was, as already stated, the amount needed to produce a pound of yarn, meaning, as shown by the board (p. 623), 9 per cent greater than the amount of yarn used, it would appear that 75 cents must be regarded as 91 per cent of the amount of tops needed to produce a pound of yarn. This would mean that the tops necessary to produce a pound of yarn would cost 82.42 cents. In England it would be necessary to spend about 67 cents to get tops necessary to produce a pound of yarn. Adding the cost of manufacturing a pound of yarn in the United States at the same rate as before, 82.42 cents must be increased by 12.62 cents, giving about 95 cents. In England 67 cents must be increased by 6.31 cents, giving 73.31 cents. The total difference in cost is thus shown to be 21.69 cents. An allowance of 3 cents per pound for the marketing charges would cut this to 18.69 cents per pound, which gives an ad valorem on 73.31 of about 25.5 per cent.

2. *Change in ply and count of yarn.*—It should be noted that the ad valorem rate supposedly necessary to protect the producer owing to

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differences in cost varies materially in accordance with the changes in ply and count of yarn. It should be figured, therefore, for each ply and count of yarn. The board has furnished data for a few of the different grades of yarn, and in the following table the computation has been followed through upon the basis indicated above.

In the following table is shown the two grades of yarn (two-ply 32's and 40's) whose cost is given by the board in the United States and England with the difference in cost computed as an ad valorem on the quotation at Bradford of these particular grades of yarn:

TABLE 11.—*Rates of duty on yarn necessary to equalize difference in cost between the United States and England.*

[Cents per pound. Tariff Board report, pp. 114, 650.]

Item.	Yarn.	
	Two-ply 32's.	Two-ply 40's.
Conversion cost from tops:		
United States (excluding interest)	14.48	17.99
England (including interest)	8.10	10.60
Difference	6.38	7.39
Mean quotations at Bradford (January-November, 1911)	40.30	49.20
Rate of duty necessary to equalize the difference:		
Ad valorem	[1] 15.83	[1] 15.02
Specific	6.38	7.39

[1] Per cent.

In studying this table, it should be borne in mind throughout that the assumption has been made that raw wool is purchased by American and English manufacturers on the scoured basis without payment of duty at New York and Liverpool, respectively; that subsequently the American manufacturer has paid his duty at 20 per cent ad valorem on raw wool, and has taken the raw material to his establishment for the purpose of manufacturing it into tops and yarns. This assumption may fairly be made, and the table may fairly be relied upon in view of the assumption that the raw-wool duty is ad valorem. If the duty be levied as at present upon the grease-pound basis, quite different results will be produced according to wool shrinkages more or less, and according to methods of scouring in this country different in their fine-wool contents from those which are pursued abroad.

3. *Price study of yarns.*—In its first volume (p. 114) the board has furnished data for a price study of yarns. These may be used for the purpose of checking the analysis already made from the standpoint of cost of production. In the section referred to, the board cites the quotations in England for worsted and hair yarns reported by the Bradford Chamber of Commerce. In 1909, it gives worsted 2-ply 40's as worth 65.9 to 75 cents per pound. In the section of the report of the Tariff Board devoted to the subject of manufacturing (Vol. III, p. 648) the cost per pound of converting tops into 2-ply 40's in the United States is given as 17.98 cents, and further (p. 650) the corresponding figure in England is given as 10.6 cents. The difference would be 7.38 cents, so that the inference may be fairly drawn that the cost of these same yarns, which sell at, say, 70 cents a pound in Bradford, England, should be about 7.38 cents higher, or 77.38 cents in the United States, assuming that the wool out of which they are made was free. In that case the

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duty required to equalize the cost of production on these yarns would be 7.38 cents divided by 70 cents, or 10.5 per cent. Working this out with English cost taken as one-half American the duty would be 12.8 per cent. The former basis is the fairer. This would be a duty intended to equalize the conversion cost between England and the United States.

No compensatory duty need be figured in this case for the equalization of wastes consequent upon the shrinkage of duty-paid wool, because this is a price, not a cost figure. These results should be compared with the cost of production estimates already given, as based upon the figures of the board. Here, again, no allowance is made for transportation and shipping charges, which would cut the duty from 10.5 per cent to possibly 6 or 7 per cent.

The question whether the yarns mentioned are placed upon the same comparative basis depends upon the use of substantially the same class of wool in manufacture. It can not be stated whether the wool thus used was uniform in the counts of yarn cited for quotation at Bradford with those considered by the board in the United States. If we should take the average of a number of plys and counts of yarn a nominally more general figure would be obtained, but this appearance of general applicability would be only nominal, because the thing which is of interest is the power to compete in specified grades of yarns. Absolutely correct results can be obtained, therefore, only by comparing the cost of production or price of specified counts with the corresponding figures for foreign conditions.

The Board states that the average value of yarn imported into the United States was $1.05 in 1911. This was an insignificant amount, because of the restrictive character of the duties, which did not compete with domestic yarns. It can not be stated what counts they represented, but, assuming that they were those most commonly used for fabrics, it might be assumed that the conversion cost was the amount as already stated, in which case the rate of protection called for would probably be not to exceed 7 per cent.

The following table shows the ad valorem duty required to protect the American producer against English competition, figuring English cost as the difference between English quotations for tops and yarns at Bradford while American cost is taken as computed by the board. This would include interest in the English costs but the same has been done by the board in figuring the English costs actually given by it.

TABLE 12.—*Conversion costs of tops into yarn with rates necessary to equalize costs between England and the United States.*

[Cents per pound.]

Item.	Two-ply 32's.	Two-ply 40's.
Conversion costs from tops:		
United States (excluding interest)	14.48	17.99
England (as shown by deducting Bradford quotations of tops from yarns)	14.20	21.80
Difference	.28	+3.81
Mean quotations at Bradford (January to November, 1911)[2]	40.30	49.20
Rate of duty necessary to equalize yarn costs:		
Ad valorem	([3])	.....
Specific	.28	.....

[1] Report, p. 650. [2] Report, p. 114. [3] 0.69 of 1 per cent.

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It may be fairly concluded, therefore, that the price showing of the board, taken in conjunction with the figures for conversion cost, the latter being estimated upon the basis of foreign price, would point to the necessity of an ad valorem duty of not more than 7 per cent above the rate on tops. If tops were 5 per cent, as they would be if there were no duty on raw wool, the duty on yarns would thus be 12 per cent. If a duty of 20 per cent were levied on raw wool the duty on yarns would be from 30 to 35 per cent—say, 32 per cent.

D. CLOTH.

The board has computed the cost of production of cloth in a manner decidedly different from that which has been employed in connection with the cost of yarns and tops. For the latter products it ascertained costs by obtaining figures on standard processes, applicable to very large volumes of product, and tabulated them in such a way as to get at unit cost. It has rejected this method in the case of cloth, because of the belief that such a plan is not applicable. The board says that it has been obliged to base its relative costs upon specific samples of home and foreign products. This means that it has simply taken selected pieces of cloth and obtained from a few mills cost estimates thereon. The board does not state the number of mills consulted, but a letter from Chairman Emery states that from 3 to 15 mills were asked to figure on each sample in the United States, and that the board does not know how many mills were consulted for each sample abroad. Furthermore, the samples that were estimated upon by the different mills were not in all cases samples made by those mills. The board says:

> Our agent * * * visited the mills with specific samples and worked out with the proper officials the cost under each separate process. * * * By this detailed analysis by processes the estimates came as near to the actual costs as the mill itself was able to make them.

The board submits two classes of samples, the one numbered consecutively from 1 to 53, the other from A to N. The first set of samples were compared chiefly with costs in English mills. "Samples of identical fabrics cut from the same piece were taken to England and to the Continent." These were American cloths. On the samples A to N the costs were secured on "similar cloths." In no case did a German manufacturer figure on the cost of producing an American fabric. They merely selected cloths which "came very near the sample fabric."

1. *Character of figures.*—It should be definitely stated that no confidence whatever can be placed in these figures, for the following reasons:

(*a*) The cost figures secured were not obtained for identical fabrics produced in the same mills, but were secured for fabrics which were similar; many of which were not produced at all in the mills to which they were submitted, although they might have been.

(*b*) There is no positive knowledge as to the number or representative character of the mills that made estimates on the samples.

(*c*) There is no knowledge as to the methods by which the figures secured from the different mills estimating on the same sample were averaged. The board admits that not all of them kept their cost figures on the same basis or in like detail.

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(*d*) Slight variations in fabric or slight errors in selecting mills of the same relative grades of efficiency would in the case of unit costs on single pieces of one fabric give rise to differences which do not seem great in themselves when stated as unit costs, but which in the aggregate would make very large variations in cost of operation for a period of months, weeks, or even days.

While thus absolutely rejecting the board's cost figures on cloths, we may subject the figures to an analysis for the purpose of ascertaining what they indicate with respect to the rates of duty that would be needed in order to protect the American manufacturer were we to accept the theory that a duty equal to difference in cost is required by protective principle.

In column 1 of the following table the number of the sample is given, such number corresponding to the number given in volume 3, pages 651 ff., of the board's report. Column 2 designates the kind of cloth by representative letters (with key at the bottom of the page). In columns 3 and 4 is shown cloth cost in the United States and in England, respectively. Columns 5, 6, and 7 relate to conversion cost and show American cost, English cost, and the difference between the two. This conversion cost is the outlay required for converting yarn into cloth. The board says (p. 651) that this conversion cost means—

> the total expense incurred in manufacturing yarn into finished cloth ready for use by the customer. It does not include the cost of the yarn, but does include the amounts expended for both direct and indirect labor, for departmental materials in the several processes of manufacture, and the charge for general expense.

Referring to the board's cost schedule, the general expense schedule is found on page 636, where general expense is analyzed into works expense and fixed charges, the latter including insurance, taxes, depreciation, and other items.

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TABLE 13.—*Tariff Board cloth and conversion estimates of samples in United States and in England, with difference in conversion costs, and the resulting tariff duty.*

Sample No.	Kind of cloth.	Cloth cost.		Conversion cost.			Per cent of American conversion cost to United States cloth cost.	Per cent of English conversion cost to English cloth cost.	Per cent of difference in conversion costs.		Assumed duty on yarn.	Resulting tariff duty.
		In United States.	In England.	American.	English (same cloth).	Difference.			To American cloth cost.	To English cloth cost.		
1	F	$0.295	$0.1535	$0.080	$0.0401	$0.0399	27.12	26.12	13.53	25.99	30	55.99
2	G	.28	.224	.083	.0415	.0415	29.64	18.53	14.82	18.53	30	48.53
3	F	.248	.1518	.089	.0488	.0402	35.89	32.15	16.21	26.48	30	56.48
4	G	.323	.1796	.106	.065	.041	32.82	36.19	12.69	22.83	30	52.83
5	F	.337	.1996	.118	.0556	.0624	35.01	27.86	18.52	31.26	30	61.26
6	F	.447	.2872	.127	.0572	.0698	28.41	19.92	15.62	24.30	30	54.30
7	F	.438	.2566	.132	.0614	.0706	30.14	23.93	16.12	27.51	30	57.51
8	E	.52	.3391	.133	.0661	.0669	25.58	19.49	12.87	19.73	30	49.73
9	C	.772	.4134	.145	.0689	.0761	18.78	16.67	9.86	18.41	30	48.41
10	F	.595	.3378	.165	.0698	.0952	27.73	20.66	16.00	28.18	30	58.18
11	C	.869	.....	.165	.081	.084	18.99	.....	9.67	.....	30	.....
12	B	.649	.3451	.168	.0777	.0903	25.89	22.52	13.91	26.17	30	56.17
13	C	.453	.3323	.174	.0863	.0877	38.41	25.97	19.36	26.39	30	56.39
14	C	.654	.4050	.178	.0777	.1003	27.22	19.19	15.34	24.77	30	54.77
15	E	.798	.3654	.190	.0853	.1047	23.81	23.34	13.12	28.65	30	58.65
16	E	.692	.4721	.212	.1107	.1013	30.64	23.45	14.64	21.46	30	51.46
17	E	.68	.4667	.212	.1067	.1053	31.18	22.86	15.49	22.56	30	52.56
18	C	.702	.....	.213	.094	.119	30.34	.....	16.95	.....	30	.....
19	B	.74	.....	.215	.091	.124	29.05	.....	16.76	.....	30	.....
20	E	.716	.5037	.216	.1034	.1126	30.17	20.53	15.73	22.35	30	52.35
21	C	.729	.4397	.217	.089	.128	29.77	20.24	17.56	29.11	30	59.11
22	B	.894	.4911	.222	.1193	.1027	24.83	24.29	11.49	20.91	30	50.91
23	B	.835	.47	.235	.104	.131	28.14	22.13	15.69	27.87	30	57.87
24	G	.811	.6061	.240	.0985	.1415	29.59	16.25	17.45	23.35	30	53.35
25	C	.903	.546	.245	.1136	.1314	27.13	20.81	14.55	24.07	30	54.07
26	G	.799	.5175	.249	.109	.140	31.16	21.06	17.52	27.05	30	57.05
27	E	.998	.4763	.250	.1043	.1457	25.05	21.90	14.60	30.59	30	60.59
28	C	.847	.408	.254	.098	.156	29.99	24.02	18.42	38.24	30	68.24
29	B	.828	.....	.258	.....	.....	31.16	.....	.....	.....	30	.....
30	D	1.11	.701	.265	.117	.148	23.87	16.69	13.33	21.11	30	51.11
31	C	1.206	.....	.282	.1114	.1706	23.38	.....	14.15	.....	30	.....
32	C	.....	.5006	.290	.1078	.1822	.....	21.53	.....	36.40	30	66.40
33	E	1.042	.6833	.291	.1357	.1553	27.93	19.86	14.90	22.73	30	52.73
34	D	.965	.4711	.293	.1207	.1723	30.36	25.62	17.85	36.57	30	66.57
35	E	1.494	.....	.294	.....	.....	19.68	.....	.....	.....	30	.....
36	B	1.556	1.10	.300	.154	.146	19.28	14.00	9.38	13.27	30	43.27
37	A	1.26	.8421	.300	.1436	.1564	23.81	17.05	12.41	18.57	30	48.57
38	D	1.166	.7426	.311	.1165	.1945	26.67	15.69	16.68	26.19	30	56.19
39	B	1.06	.....	.320	.....	.....	30.19	.....	.....	.....	30	.....
40	E	1.063	.....	.359	.....	.....	33.77	.....	.....	.....	30	.....
41	A	1.141	.701	.360	.2053	.1547	31.55	29.29	13.56	22.07	30	52.07
42	B	1.417	.85	.362	.152	.210	25.55	17.88	14.82	24.71	30	54.71
43	E	1.104	.....	.364	.....	.....	32.97	.....	.....	.....	30	.....
44	A	1.661	1.054	.365	.1877	.1773	21.97	17.81	10.67	16.82	30	46.82
45	D	1.504	.9512	.370	.1671	.2029	24.60	17.57	13.49	21.33	30	51.33
46	A	1.709	1.0996	.386	.1861	.1999	22.59	16.92	11.70	18.18	30	48.18
47	A	1.503	.9152	.382	.16	.222	25.42	17.48	14.77	24.26	30	54.26
48	A	1.349	.8190	.392	.1924	.1996	29.06	23.49	14.80	24.37	30	54.37
49	B	1.332	.7641	.396	.1512	.2448	29.73	19.79	18.38	32.04	30	62.04
50	D	1.446	.....	.402	.....	.....	27.80	.....	.....	.....	30	.....
51	A	1.789	.....	.603	.....	.....	33.71	.....	.....	.....	30	.....
52	D	2.136	1.257	.632	.2376	.3944	29.59	18.90	18.46	31.38	30	61.38
53	A	2.233	1.234	.693	.339	.354	31.03	27.47	15.85	28.69	30	58.69

A. Staples and piece dyes.
B. Serges.
C. Fancy woolens.
D. Fancy worsteds.
E. Women's wear.
F. Lightweight women's wear.
G. Cotton warp.

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2. *Mode of computing tariff.*—It is evident that to ascertain the tariff on the board's theory needed to protect the American manufacturer in the process of cloth making the English conversion cost must be deducted from the American, as is done in column 7, and the difference must be regarded as the amount of protection needed. In columns 8 and 9 the relation of total American conversion cost to total American cloth cost and the percentage of English conversion cost to total English cloth cost, have been figured, for reasons which will later appear. In columns 10 and 11 are given the percentage of the difference in conversion cost to American cloth cost and to English cloth cost. There may be a division of opinion which of these should be used as the basis for figuring the tariff duty required. Taking the most extreme case, however, it may be assumed that an English manufacturer produces cloth at the cost indicated by the board, ships it to the United States without expense for transportation and without interest on capital, commission charges, or other outlays of the kind, and sells it in the American market. In that case, if he sold at cost, the American producer would need a tariff based on the English cost as compared with the difference in conversion cost, supposing that the duties were to be levied upon an ad valorem basis.

These figures are given in column 11 and range from 13 per cent up to 38 per cent or more. The average is 24.49 per cent. This figure may be taken then as the extreme rate of duty needed to protect the American manufacturer on the basis of cost of production under the theory of the board, accepting its cost figures as unquestionably correct.

It will be noted, however, that this duty amounts only to a protection on the process of making cloth. It must, therefore, be added to the duty properly to be levied under the board's figures upon the material, yarn, of which cloth is made. In order to get absolutely correct results on this subject it would be necessary to have cost figures, from the raw material up, for every kind of yarn used in the manufacture of these cloths. Those can not be obtained, because the board does not give complete figures for every ply and count of yarn. It may, however, fairly be assumed that the board is honestly representing the case in stating that the costs for yarn which it has presented, as well as its cost for tops, are representative. Supposing that to be true and accepting the average cost of production of its tops and yarns as the basis for duty upon the yarns used in producing each of these representative samples, it will be found (see tabulation elsewhere) that the cost figures on yarns and tops point to the necessity of an average duty of, say, 30 per cent on the yarn in order to equalize differences in cost of production.

This estimated rate has been set down in column 12 as the addition which should be made to the duties presented in column 11 for the purpose of getting at the total required duty. In column 13 is presented the combination of the two duties enumerated in columns 11 and 12 which represents the total tariff duty on these samples required under the board's figures. It will be found that this makes an average duty in the aggregate (foot of column 13) amounting to about 55 per cent.

However, for the purpose of practical legislation this can not be accepted as the basis of action. It has already been noted that no

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allowance was made for transportation from England to the United States nor for the actual and necessary capital cost independent of profit necessary for carrying the goods, insuring them in transit, paying commissions in this country, and placing them on the market. It will be regarded as a very conservative estimate to figure this outlay at 10 per cent of the cost of goods from the factory to the retailer, entirely independent of profit, and this leaves 45 per cent. Moreover, it will have been noted that in certain portions of the discussion of estimated cost of yarns, figures were given which included an element of profit, because the board presented the data in this manner. If this item included for profit were eliminated, the figures of cost would be correspondingly reduced, and the rates of duty needed for protection would be likewise lessened.

TABLE 14.—*German and American sample cloth and conversion costs, with per cent of conversion cost, and resulting tariff duty.*

[Tariff Board report, pp. 694 to 704.]

Sample No.	Kind of cloth.	Cloth cost (including selling expense).		Conversion cost.			Per cent of American conversion cost to United States cloth cost.	Per cent of German conversion cost to German cloth cost.	Per cent of difference in conversion cost.		Assumed duty on yarn.	Resulting tariff duty.
		In United States.	In Germany.	American.	German.	Difference.			To American cloth cost.	To German cloth cost.		
A	Worsted suitings.	$1.71	$1.119	$0.495	$0.283	$0.212	28.95	25.29	12.49	18.95	30	48.95
B	.....do.....	1.86	1.222	.50	.278	.222	26.88	22.75	11.94	18.17	30	48.17
C	Black drape worsted.....	2.2462	1.522	.784	.489	.295	34.90	32.13	13.13	19.38	30	49.38
D	Fine worsted.....	2.2333	1.328	.71	.436	.274	31.79	32.83	12.27	20.63	30	50.63
E	Fancy worsted...	1.5626	1.129	.413	.246	.167	26.43	21.79	10.69	14.79	30	44.79
F	Men's heavy serge	2.321	1.395	.666	.370	.296	28.69	26.52	12.75	21.22	30	51.22
G	Men's serge.....	1.9778	1.208	.527	.315	.212	26.65	26.08	10.72	17.55	30	47.55
H	Fancy worsted...	1.398	.8997	.47	.286	.184	33.62	31.79	13.16	20.45	30	50.45
	Unfinished worsted.....	1.684	1.086	.47	.265	.205	27.91	24.40	12.17	18.88	30	48.88
J	Fancy worsted...	1.471	1.062	.521	.301	.220	35.42	28.61	14.96	20.91	30	50.91
K	.....do.....	1.782	1.10	.522	.288	.234	29.29	26.18	13.13	21.27	30	51.27
L	Fancy serge.....	1.638	1.053	.558	.31	.248	34.07	29.44	15.14	23.55	30	53.55
M	Fancy worsted...	1.846	1.232	.486	.275	.211	26.33	22.32	11.43	17.13	30	47.13
N	.....do.....	1.728	1.208	.468	.257	.211	27.08	21.27	12.21	17.47	30	47.47

The same method of computation has been followed in Table 14 with regard to German costs. These have been averaged in a similar manner, showing the supposed need of an average tariff duty on the process of cloth making amounting to 19.28 per cent. Adding this to the yarn costs it appears that the total average rate of duty required to protect against Germany would be 51 per cent, or, on a basis of 30 per cent yarn duty, 49 per cent. If the same deduction of 10 per cent were made as in the case of the other collection of samples the remaining duty would be 39 per cent.

All these cloths were included under paragraphs 5 and 7 of H. R. 11019, vetoed by President Taft, at 40 and 45 per cent ad valorem.

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The average duty on German and English cloths, as figured above, if they were to be combined in a weighted or true average, would be about 46 per cent. The rates in paragraphs 5 and 7 of H. R. 11019 were 40 and 45 per cent respectively.

3. *Equalization of costs.*—Further analysis of the table throws much light on the situation in respect to cloth cost in the United States and abroad and the rates of duty supposed to be necessary to equalize these costs. Considering the table without any reference to the duties on yarn or the total tariff duties, and simply with regard to the data indicated as being necessary by reason of the difference in cost of production, it is seen that very wide variations of cost difference are to be noted. Thus in column 11 showing the per cent of difference in conversion cost stated as an ad valorem percentage of the English cloth cost it is seen that some figures run as high as 36½ per cent in England, while other figures run as low as 16.82 per cent. It is an obvious fact that a rate of duty which would, on the board's theory, protect the American manufacturer against English competition in one case would not be satisfactory in the other. A number of the sample cloths studied by the board show less than 25 per cent, while several run higher than that. Analyzing the column further, it is found that nearly one-half of the total number are below 25 per cent.

There is no explanation of the reasons for the extreme variation in the board's report, but it would appear to be largely due to differences in the cost of the yarn stock. In columns 3 and 4 are given the cloth cost in the United States and in England, and in columns 5 and 9 the cost of conversion in American and English mills. While there are considerable differences in the conversion costs per yard, it seems evident from a study of the figures that the principal foundation for differences between the United States and England is the variation in yarn-stock cost. It will be observed in columns 3 and 4 that in the more expensive fabrics the difference in cloth cost is large, but that it does not necessarily follow that a disproportion of the great difference in conversion cost exists. For example, sample No. 46 shows a cloth cost in the United States of $1.71, while in Great Britain the cloth cost is $1.10. Yet the conversion cost in the United States was 38.6 cents and in England 18.61 cents.

Although there was a difference of 61 cents in cloth cost, this particular sample showed no greater margin of difference than did others. About 41 cents per yard was due to the difference in yarn-stock cost. In a similar way sample No. 12 shows a cloth cost in the United States of 64.9 cents, while in England the cost is 34.51 cents, a difference of approximately 30 cents. The difference in conversion cost was about 9 cents, the conversion cost in the United States being nearly 17 cents. Thus of the difference in cloth cost fully 21 cents, or nearly one-third of the cloth cost in the United States, was due to differences in yarn-stock cost. Without going into this phase of the subject at greater length, it may be said generally that the higher differences in cost of production are due to the higher cost at which the United States is compelled to get its yarn, and that this, as seen in our sections on yarn and tops, is primarily due to the unequal working of the duty on raw wool, which works unevenly upon wools of different fineness and spinning quality. If such inequalities were removed much of the variation in differences

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of cost between the United States and England would disappear and there would be a tendency to reduce differences in cost toward the level of the fabrics which show the lower differences.

4. *Variation by countries.*—The figures in Table 14, contrasted with those in Table 13, show that the amount of duty needed to equalize differences in production between the United States and Germany, are very much smaller than those needed to equalize differences between the United States and England. As there shown, the average percentage of difference in conversion cost, figured as an ad valorem of German cloth cost, is less than 20 per cent, and in the case of one fabric runs below 15 per cent. This presumably shows that the cost of production in Germany is higher than in England, as compared with the United States. The comparison can not be an accurate one since the board's analysis of samples did not employ the same fabrics for competitive purposes in its study of conditions in Germany as in England, but the tendency may fairly be stated as already indicated. It is therefore worth noting that certain German fabrics show, according to the board's figures, necessity for a smaller amount of duty than for any of the fabrics included in the English list. This is doubtless due to conditions under which the raw material is obtained. For example, sample E, in Table 14, shows a cloth cost in the United States of $1.56, and in Germany of $1.13. The conversion cost in the United States was 41.3 cents, and in Germany 24.6 cents, or a difference of 16.7 cents. This was a case where cost of raw material was decidedly high as compared with the cost of most of the raw material used in the English fabrics, and where the difference in conversion cost was therefore a comparatively small percentage of the total cost. With this may be contrasted sample H, which shows an American cloth cost of $1.40 and a German cloth cost of 90 cents, while the difference of conversion cost was 18.4 cents. Here the difference between the cloth cost between the two countries was 50 cents, as against the difference of 43 cents in the case of sample E, but the lower basis of ad valorem computation in the case of sample H led to a relatively higher rate of duty—20.45 per cent. Many of these wide margins of difference, not only between different fabrics in the same country, but between different fabrics in different countries, would be eliminated. If all were placed upon the same footing with reference to access to raw material, free raw material in the United States would probably give us a distinct advantage over some foreign countries that produce woolens, this difference being probably in not a few instances sufficient to more than offset the differences in conversion cost. Under present conditions, what is sufficient protection against one country is not, according to the Board's report, sufficient protection against others, while an adequate duty directed against the products of the stronger competitive countries imposes an unnecessary disadvantage upon those which are thus placed under the obligation of paying a high rate of duty more than corresponding to the difference in cost.

Keeping in mind the fact that there are many differences in cost among American mills themselves, the policy which imposes duty at a rate sufficiently high to protect against the most efficient mills abroad, levying the same rate on the goods which come from countries not so favorably situated with reference to raw material, gives large degree of protection to the products of American mills of the less

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efficient class, and enables them to continue in business in certain classes of fabrics with costs of production that are needlessly high and that both might and would be very easily reduced, were they subject to even a moderate amount of competition from foreign mills. While, as already stated, there is no reason to regard the sample study of the board as entitled to confidence, the results, so far as they indicate anything, emphasize the necessity for either assigning rates of duty on a basis to protect the most efficient domestic mills against the most efficient mills abroad or reclassifying fabrics with a view to lowering the rates upon those that can bear such cuts better than others. If either of these inferences from the board's figures as to the cost of sample fabrics were to be accepted, the rate of duty considered necessary for protective purposes would be greatly less than that which has already been indicated.

E. READY-MADE CLOTHING.

The board has investigated the subject of ready-made clothing, and has reported on this subject in Volume III (Pt. 4, pp. 843–946), in which is furnished information concerning men's and women's ready-made clothing, knit goods, etc.

Discussing the cost of men's suits, (p. 860) it is found in the case of cheap suits ($8 and under) the material cost is about 47.1 per cent, the trimmings 13.7, or a total of 60.8 per cent. Manufacturing cost, including direct labor and factory expense, is 22 per cent, while overhead expense is 6.9 per cent and profit is 10.1 per cent. From this it is clear that the amount of tariff duty left upon the goods going into the suit itself should be the same to the extent of 60.8 per cent of the suit, as on the raw material of which it is composed. If there were a duty of 45 per cent upon the cloth and trimmings used in the manufacture of a suit, this presumably should represent the rate of duty upon the finished product so far as that consists of the material thus made dutiable. In other classes of manufacture the method adopted by the board in estimating tariff duties has been to figure the difference between the production cost, exclusive of material, in the United States and foreign countries, and then to add this difference as an excess tariff duty over and above the duty on the raw material.

The question with reference to ready-made clothing is, therefore, whether 30 per cent of the costs of manufacturing clothing which is found to be due to labor and factory expense and overhead charges is greater in the United States than abroad. There is no definite information in the board's data regarding the cost of manufacturing clothing, inasmuch as costs do not appear to have been ascertained abroad upon the same basis. About all that can be said, therefore, is that so far as the board's information goes, there is no reason for increasing the tariff on ready-made clothing above the rate of tariff imposed upon the cloth and material out of which such clothing is made. The rate of duty fixed in H. R. 11019 upon ready-made clothing was 45 per cent, which was the highest rate given upon any article provided for in the bill except carpets (par. 17). The board furnishes a number of indirect reasons for thinking that no excess duty is needed for the purpose of protecting the ready-made clothing industry against supposed excess cost in foreign countries. It states that the total annual manufacture of ready-made clothing in this country

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in 1909 was about $486,000,000 for men's and $385,000,000 for women's wear, making a total of more than $870,000,000.

The amount of importations of ready-made clothing under the tariff law in 1910 was $1,776,236, and the amount which was estimated as likely to be imported under H. R. 11019, during a twelve-month period about $5,000,000. H. R. 11019 proposed to reduce the rate from 81.31 per cent (equivalent ad valorem for 1910) to 45 per cent. The fact is that ready-made clothing is an article which does not pass to any great extent into international trade, owing to the fact that there are large differences in styles between the countries, and that very large variations in cost may occur without greatly affecting the trade in such clothing. It is probable that a large proportion of the small amount of our imports of ready-made clothing at the present time represent the value of goods brought home by returning travelers, and have no relation whatever to the rates of the tariff. The board, moreover, makes it clear that probably one-third of the existing retail price of ready-made clothing represents charges for retailing, advertising, etc., all of which items are probably the subjects of competition and need not be provided for in the tariff as the subjects of special protection.

Very little attention need be given to the board's estimate of the cost of different elements entering into the manufacture of different garments. The inquiry of the board was conducted entirely by the sample method, and may, or may not, have represented the general average cost in the industry. It is an interesting fact that in analyzing typical suits, the cost of Ohio wool has been used as the basis for the computation, notwithstanding the fact that the Ohio wool does not sell in the market any higher than wool of similar quality from other sources, although its expense of production was found to be very much greater than wool grown in the States farther west. Therefore, so far as the board's incomplete data on ready-made clothing afford light upon duties, they would appear to indicate a tariff identical with that on the cloth used in making the clothing.

F. KNIT GOODS.

In connection with its discussion of ready-made clothing, cost analyses are given by the board (pp. 911–946) with reference to sample knitted garments, such as sweaters, mittens, etc. Here, as in the case of the ready-made clothing, comparative data for foreign countries are absent. The analysis is made from the establishments of the United States and the effort of the board has been to segregate the different items of cost, so as to show the cost of stock, labor, and factory expense. The general showing made by the board is that the materials used consist of the coarser grades of yarn, while the processes of manufacture are apparently less costly than those producing cloth. Thus, for example, in the sample study made by the board it was found that, for instance, in sample 49, the stock cost of the sample was 94 cents per yard, while American conversion cost was 40 cents, making a total cloth cost of $1.34. In English mills the yarn for a yard cost 61 cents, and the manufacturing cost was 15 cents, giving a total cloth cost of 76 cents per yard. The labor in the conversion cost for the United States was found to be 21.3 cents

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per yard. Contrasting this with the Cardigan jacket, taken by the board as a sample in the knit-goods investigation (p. 920), it was found that the cost for stock and trimmings in a dozen garments was $11.68, while the conversion cost was $8.16. The total mill cost, therefore, was $19.84.

In the United States the labor outlay for converting yarn (No. 49) into cloth was about 16 per cent, while in the case of the knit goods the labor outlay was about 30 per cent of the total. The labor outlay on sample No. 49 was, however, about 54 per cent of the actual conversion cost from yarn to finished goods, while in the Cardigan jackets it was about 70 per cent. In their samples it appears that the labor cost of conversion is about two-thirds of the total cost of conversion, while numerous instances are given by the board in which the relationship between labor cost of conversion from yarn to finished cloth is substantially the same, or is higher. There appears to be no reason, therefore, for assuming that any larger allowance for protection should be made upon knit goods than upon ready-made clothing or fabrics. The knit goods are made from the lower and coarser qualities of yarn, and there is less difference in the cost of production, probably, of such yarns between the United States and foreign countries than there is on the finer yarns when labor and capital costs are considered. The fair inference would be, therefore, that the duty required on the knit goods would be less than the duty called for upon fabrics.

G. CARPETS.

No data whatever are furnished by the board with reference to carpets except a few general statements concerning the position of the industry in Volume I (pp. 169–188). These statements are purely descriptive of methods of manufacture, amounts of importation and exportation, etc. The tariff history with reference to carpets is given. The board points out (p. 169) that the difficulty in fixing tariff rates on carpets has been to arrange matters in such a way that the rates should prevent the introduction of third-class wool and its use as a substitute for clothing wool. This is a difficulty which grows out of the application of specific duties, with considerable variations in the amount of wastes produced in the process of manufacturing, etc. If an ad valorem duty is levied upon third-class wools upon the same basis as on the first and second class, the difficulties arising out of variations in compensation involved in the specific-duty system are removed. Assuming that the ad valorem charge on carpet wools is the same as on other wools, two questions arise in connection with tariff duties (1) whether the relation between the raw material employed in the manufacture of the finished product bears approximately the same relationship to the value of labor in carpets as is the case of fabrics made from the finer wools, and (2) whether the industry employs about the same proportion of tax-free materials as does that which deals with fabrics.

On these points the board furnishes little or no information, and what it does furnish is incidental to its discussion of other phases of the industry. The conclusion to be drawn from the statistical matter furnished is that, owing to the use of raw materials other than wool, which are dutiable at a much lower rate, or are free of duty, there

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is much less reason for the levying of duties at the same rate on carpets as upon fabrics. The fact that the raw material is so much less valuable than in the case of the fabric, tends to reduce the value of the stock cost as compared with the labor cost entering the product. If these two factors be considered to offset each other, in a measure, the rate of duty on carpets might be regarded as about the same as that placed on the coarser fabrics, whatever that may be. In proportion as the quantity of materials other than wool increases, the amount of nontaxed material in the goods also increases, and hence the aggregate amount of duty, which has been sustained in turning out a product of a given value, is reduced. How great a reduction this should permit in the rates of duty as compared with the maximum rate to be authorized upon the best grades of carpets, can not be stated on the basis of anything contained in the report of the board.

The board's report, however, shows a materially smaller difference in cost between the United States and other countries with respect to the coarser varieties of carpets, which employ less labor and capital relatively to the amount of material included in them. The lower counts of yarn have a decidedly lower cost of production, both absolutely and relatively, than do the higher counts, employed in the manufacture of the better grades of fabrics. The inference to be drawn, therefore, from this part of the report is that a reduction in the rate of duty on the lower grades of carpets, not only because of the smaller proportion of taxed materials in them, but also because of the fact that so much less actual labor is employed, unit for unit, in their production. The rate of reduction in the duties on carpets, below the maximum rate assigned to the best grades of carpets, can not, therefore, be measured as a percentage of the amount of duty charged over and above the rate on raw wool. This would be true only if carpets were composed exclusively of wool, or at all events, in the same proportion that holds good of the other fabrics. Where the use of other raw materials has entered this is not the case. This situation is recognized by the board in connection with its study of cloths, where it points out that its rates of compensatory duty apply to fabrics made wholly of wool (p. 626), but that the situation is different where cheaper materials are employed, while there is no test that will disclose the proportion of noils, shoddy, etc., to new wool in the many varieties of fabric.

There is nothing whatever in the board's report which affords any reason for modifying or changing the rates on carpets fixed in H. R. 11019, in relation to the other rates fixed in that bill. Should a change be made in the rates on raw wool, tops, and yarns, as compared with those carried in H. R. 11019, reason would be afforded for changing the rates on carpets, but the former products remaining the same there is nothing whatever to support a change in the rates in the carpet paragraphs.

RECAPITULATION ON TARIFF BOARD REPORT.

1. The theory of applying tariff duties according to the difference in the cost of production in this and in foreign countries, upon which the board has projected and prepared its report, is entirely erroneous and untenable. Furthermore, if this theory could have been system-

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atically and carefully applied, it would not have afforded trustworthy results for guidance in preparing tariff legislation.

2. The board's report is fragmentary and incomplete, and rests on an incorrect statistical basis. Hence it has no claims to confidence for the results set forth therein, even should the reliability of the theory of the cost of production be conceded.

3. Those persons who are willing to overlook the lack of theoretical soundness and of statistical accuracy, will find the data of the report too fragmentary and incomplete to admit of conclusions with reference to rates of tariff duty. Even under the most favorable interpretation of the report, conclusions as to duties can be reached for only a few paragraphs of the wool schedule, and for these paragraphs it is not possible to formulate definite conclusions, because the figures vary widely, and seriously lack uniformity and comparability. So much is this the case that justification is apparently afforded in the report for rates that are in conflict with one another. It is thus seen that the report leaves the question of the tariff duties on wool as much unsolved as before the Tariff Board was formed.

4. So far as conclusions can be drawn from the board's report, it furnishes nothing to justify any change in the rates proposed in H. R. 11019. With full recognition of the incomplete, fragmentary, and unsatisfactory nature of the data, and with full admission of the inadequate and unreliable basis afforded for computations, the following table may be regarded as setting forth, as well as it is possible to do, the conclusions as to the rates of duty justified by the report.

TABLE 15.—*Comparative equivalent ad valorem rates of duty in 1910 and 1911 with those of H. R. 22195, together with the rates computed from the Tariff Board report as equalizing cost of production.*

Item.	Ad valorem rates per cent.			
	Equivalent, computed from imports of—		H. R. 22195.	Computed from Tariff Board report.
	1910	1911		
Unmanufactured wool	44.31	42.20	20	0–25
Noils, wastes, shoddies, mungo, flocks, etc., and all other wastes or rags composed wholly or in part of wool, n. s. p. f.	38.96	34.99	20	0–25
Combed wool or tops	111.73	(1)	25	5–30
Wool and hair advanced in any manner, n. s. p. f.	86.33	89.93	25	5–30
Combed wool or tops, and wool and hair advanced, etc.	105.19	[1] 89.93	25	5–30
Yarns made wholly or in part of wool	82.38	76.61	30	12–45
Cloths, knit fabrics, felts not woven, and all manufactures of wool, n. s. p. f.	97.11	95.26	40	32–70
Blankets and flannels	95.57	93.66	30 and 45	(2)
Dress goods, women's and children's, coat linings, Italian cloths, bunting, and similar goods, n. s. p. f.	102.85	102.11	45	32–70
Clothing, ready-made, and articles of wearing apparel of every description, including shawls, whether knitted or woven, and knitted articles of every description, etc.	81.31	78.06	45	32–70
Webbings, gorings, suspenders, braces, bandings, etc	87.06	84.76	35	(2)
Carpets and carpeting	60.66	61.62	25–50	(2)

[1] Combed wool or tops not reported. [2] No data furnished by Tariff Board.

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In making the computations from which have resulted the rates shown in Table 15, as justified by the Tariff Board's data, the most expensive and difficult conditions indicated by the data as attending production have been employed with a view to being more than just in the conclusions. As will be observed from the figures shown, the necessity of protection to equalize the difference in the cost of production beyond the rates carried by H. R. 11019 exists in but few instances, and these are in all probability the result of the high costs which have been presented and used by the board in the computations.

5. In preparing H. R. 11019 of last session and H. R. 22195 of this session no intentional provision was made for protection, the endeavor being to reduce and adjust rates so as to produce the largest amount of revenue consistent with the proper consideration of the consumer. It is believed that the rates of this bill approach very closely, at least, to the best revenue-producing points, and these rates should, if enacted into law, permit such quantities of imports as will effectively regulate domestic prices. Such competition would be an important service to the people, as it would encourage increased consumption and production by making more nearly normal the conditions of supply and demand. The report of the Tariff Board, so far as it admits of conclusions, shows that the rates which meet the consumer's needs also sufficiently satisfy those of the producer.

Revenue of H. R. 22195.

As the committee is resubmitting to the House the bill presented at the last session of Congress, with no change of basis or rates, no change in its revenue estimate is called for. In the following table is presented with other data, the results of the computation furnished in the report which accompanied H. R. 11019 (H. Rept. 45, 62d Cong., 1st sess.).

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TABLE 16.—*Summary of imports and duties for the fiscal years 1910 and 1911, with estimated imports and duties for a 12-month period under H. R. 22195.*

Item.	Paragraph number.		Year.	Quantity.	Value.	Duties.	Average unit of value.	Equivalent ad valorem rate of duty (act of 1909).	Twelve-month period under H. R. 22195.		
	H. R. 22195.	Act of 1909.							Rate of duty (per cent).	Estimated imports.	Estimated duties under new rates on estimated imports.
Unmanufactured wool (pounds)	1	360–371	1910	256,606,638.14	$47,687,293.20	$21,128,728.74	$0.186	44.31	.....	.....	.....
			1911	165,900,839.08	29,572,258.52	12,482,854.91	.178	42.20	20	$66,991,000.00	$13,398,200.00
Noils, wastes, shoddies, mungo, flocks, etc., and all other wastes or rags composed wholly or in part of wool, n. s. p. f. (pounds)	2	372–374	1910	577,720.00	203,509.25	79,293.00	.352	38.96	.....	.....	.....
			1911	461,259.00	191,391.00	66,963.90	.415	34.99	20	890,535.00	178,107.00
Combed wool or tops, and wool and hair advanced in any manner, n. s. p. f. (pounds)	3	375, 376	1910	2,101.25	1,129.80	1,188.41	.538	105.19	.....	.....	.....
			1911	124.03	130.35	117.22	1.05	80.99	25	732,508.00	183,128.00
Yarns made wholly or in part of wool (pounds)	4	377	1910	359,888.30	326,886.02	269,296.16	.908	82.38	.....	.....	.....
			1911	177,525.48	186,654.03	143,004.74	1.05	76.61	30	1,373,937.00	412,181.00
Cloths (pounds)	.....	.....	1910	5,897,629.98	6,104,140.39	5,937,753.72	1.03	97.27	.....	.....	.....
			1911	4,823,553.08	5,226,551.07	4,985,414.93	1.08	95.39	.....	[1] 23,102,123.00	[1] 9,240,849.00
Knit fabrics (not wearing apparel) (pounds)	.....	.....	1910	34,562.54	36,999.88	35,430.67	1.07	95.76	.....	.....	.....
			1911	14,363.00	14,857.00	14,413.25	1.03	97.01	.....	.....	.....
Felts (pounds)	.....	.....	1910	90,022.95	107,018.43	103,821.16	1.19	97.01	.....	.....	.....
			1911	78,249.00	96,892.34	92,564.97	1.24	95.53	.....	310,230.00	124,092.00
Plushes (pounds)	.....	.....	1910	18,421.38	16,726.46	17,117.80	.908	102.34	.....	.....	.....
			1911	13,017.00	11,709.00	12,082.53	.90	103.20	.....	.....	.....
All other manufactures, n. s. p. f. (pounds)	.....	.....	1910	362,975.75	393,402.91	371,760.96	1.08	94.50	.....	.....	.....
			1911	297,192.82	[2] 336,932.69	312,820.14	1.13	92.84	.....	650,000.00	260,000.00
Cloths, knit fabrics, felts not woven, and all manufactures of wool, n. s. p. f. (pounds)	5	378	1910	6,403,612.60	6,658,288.07	6,465,884.31	1.04	97.11	.....	.....	.....
			1911	5,226,374.90	5,686,942.10	5,417,295.82	1.09	95.26	40	[3] 24,062,353.00	[3] 9,624,941.00
Blankets (pounds)	.....	.....	1910	53,024.90	45,995.47	33,767.77	1.07	73.42	.....	.....	.....
			1911	43,112.84	55,832.59	41,808.12	.....	74.88	.....	95,897.00	28,769.00
Flannels	.....	.....	1910	.....	122,894.35	127,644.93	1.05	103.87	.....	.....	.....
			1911	.....	86,029.30	91,062.50	.....	105.85	.....	162,533.00	72,882.00
Blankets and flannels	6	379	1910	.....	168,889.82	161,412.70	.....	95.57	.....	.....	.....
			1911	.....	141,861.89	132,870.62	.....	93.66	30 and 45	288,490.00	101,651.00
Dress goods, women's and children's, coat linings, Italian cloths, bunting, and similar goods, n. s. p. f.	7	380, 381	1910	.....	9,218,374.10	9,481,206.75	.....	102.85	.....	.....	.....
			1911	.....	6,264,272.87	6,498,616.36	.....	102.11	45	25,408,458.00	11,433,806.00
Clothing, ready-made, and articles of wearing apparel of every description, including shawls, whether knitted or woven, and knitted articles of every description, etc. (pounds)	8	382	1910	860,412.87	1,776,236.34	1,444,296.87	2.06	81.31	.....	.....	.....
			1911	926,616.02	2,257,374.13	1,762,098.68	2.44	78.06	45	5,066,362.00	2,279,863.00

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Webbings, gorings, suspenders, braces, bandings, etc. (pounds)	9	383	1910	41,755.00	77,161.70	67,174.54	1.85	87.06	.....	.....	.....
			1911	36,998.98	74,718.26	63,330.54	2.02	84.76	35	160,898.00	56,314.00
Aubusson, Axminster, moquette, and chenille carpets, etc	10	384	1910	23,084.90	62,700.00	38,930.65	2.71	62.09	.....	.....	.....
			1911	24,351.31	46,925.00	33,384.79	1.93	71.13	40	79,346.00	31,738.00
Saxony, Wilton, and Tournay velvet carpets, etc	11	385	1910	20,450.93	40,711.00	28,554.96	1.99	70.14	.....	.....	.....
			1911	17,204.44	40,183.00	26,395.86	2.34	65.69	35	51,134.00	17,897.00
Brussels carpets, etc	12	386	1910	6,781.75	8,222.00	6,272.77	1.21	76.29	.....	.....	.....
			1911	5,507.25	7,567.00	5,449.99	1.37	72.02	30	9,992.00	2,998.00
Velvet and tapestry velvet carpets, etc	13	387	1910	23,056.73	41,058.00	25,645.89	1.78	62.46	.....	.....	.....
			1911	23,003.56	45,288.00	27,316.62	1.97	60.32	35	51,722.00	18,103.00
Tapestry Brussels carpets, etc	14	388	1910	163.00	187.00	120.44	1.15	64.41	.....	.....	.....
			1911	446.30	407.07	287.78	.912	70.70	30	235.00	71.00
Treble ingrain, 3-ply, and all-chain Venetian carpets, etc	15	389	1910	1,853.00	1,675.00	1,077.66	.904	64.34	.....	.....	.....
			1911	4,835.00	4,253.00	2,764.90	.88	65.01	30	1,763.00	579.00
Wool, Dutch, and 2-ply ingrain carpets	16	390	1910	27.50	22.00	13.75	.80	62.50	.....	.....	.....
			1911	10.00	12.00	6.60	1.20	55.00	25	24.00	6.00
Carpets of every description, woven whole for rooms, and oriental, Berlin, Aubusson, Axminster, and similar rugs	17	391	1910	1,004,009.23	4,392,786.43	2,660,723.16	4.37	60.57	.....	.....	.....
			1911	886,151.09	3,686,366.89	2,272,082.85	4.16	61.64	50	5,582,157.00	2,791,079.00
Druggets and bockings, etc	18	392	1910	36,537.89	30,587.00	20,273.13	.837	66.28	.....	.....	.....
			1911	24,866.77	21,524.00	14,080.29	.865	65.42	25	38,791.00	9,698.00
Carpets and carpeting of wool, flax, or cotton, or composed in part of any of them, not specially provided for in this section, and mats, matting, and rugs of cotton	19	393	1910	.....	49,535.25	24,756.11	.....	50.00	.....	.....	.....
			1911	.....	67,270.23	33,635.11	.....	50.00	25	62,824.00	15,706.00
Carpets and carpeting	10-20	384-394	1910	.....	4,627,483.68	2,806,368.52	.....	60.65	.....	.....	.....
			1911	.....	3,919,806.19	2,415,404.79	.....	61.62	25 to 50	5,877,988.00	2,887,825.00
Total manufactures of wool	.....	.....	1910	.....	23,057,958.78	20,776,121.26	.....	90.10	.....	.....	.....
			1911	.....	[2]18,823,150.82	16,499,697.67	.....	87.65	42.55	63,831,469.00	27,157,816.00
Total wool and manufactures of wool	.....	.....	1910	.....	70,745,251.98	41,904,850.00	.....	59.23	.....	.....	.....
			1911	.....	[2]48,395,409.34	28,982,552.58	.....	59.89	31.00	130,822,469.00	40,556,016.00

[1] Includes plushes and other pile fabrics.
[2] Includes $3 free of duty.
[3] Does not include knit fabrics not wearing apparel, which, in table estimated on the basis of net consumption, are included among wearing apparel, clothing, ready-made, etc.

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As indicated in Table 16, the committee estimates that the duties during the first 12-month period under H. R. 22195 will amount to $40,556,016, which compares with $41,904,850 for 1910 and $28,982,553 for 1911. It is believed by the committee that no loss in revenue will result from the enactment of H. R. 22195, but that the bill will produce probably as much as in 1910, while at the same time the yearly burden resting upon the people owing to the cost of woolen clothing will be reduced by more than $50,000,000.

THE FORM AND PHRASEOLOGY OF BILL.

The phraseology of the bill H. R. 22195 conforms throughout to that of H. R. 11019, which is practically the same as that of the act of 1909. In framing the bill the purpose of the committee has been to make no change in the language used in enumerating and describing the articles included under its provisions, except such as is necessarily involved in the omission of the provisions for the classification of raw wools, admixture of blood, the varying rates on washed, scoured, sorted, or skirted wools, etc., and the omission of subclassifications according to value, weight, or dimension of most of the groups of manufactured articles. The exclusive use of ad valorem duties obviates the intricate and complex qualifications, differentiations, and discriminations of Schedule K of the act of 1909. Ad valorem duties automatically adjust themselves to all these distinctions.

The enacting clause of the bill conforms exactly to that of the tariff act of August 5, 1909, of which the bill is practically an amendment, in order to avoid any possible ambiguity or conflict with regard to the insular possessions of the United States. The warehouse provision (sec. 2) also conforms exactly to the corresponding provisions in the act of 1909 (sec. 29), except that the provision for levying duties based on weight at the time of the entry of the merchandise is omitted, since the bill H. R. 22195 provides for no duties based on weight. Under this warehouse provision, as in the present act, articles in warehouse when the bill H. R. 22195 takes effect, on which duties have not been paid, shall be subjected to duty when withdrawn as if they had been imported after the taking effect of the act; but articles in warehouse on which duties have been paid and a permit of delivery issued, shall be subject to the duties imposed prior to the enactment of the new bill.

OSCAR W. UNDERWOOD, *Chairman.*
CHOICE B. RANDELL.
FRANCIS BURTON HARRISON.
WILLIAM G. BRANTLEY.
DORSEY W. SHACKLEFORD.
CLAUDE KITCHIN.
OLLIE M. JAMES.
HENRY T. RAINEY.
LINCOLN DIXON.
WILLIAM HUGHES.
CORDELL HULL.
W. S. HAMMOND.
ANDREW J. PETERS.
A. MITCHELL PALMER.

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APPENDIX.

[H. R. 22195, Sixty-second Congress, second session.]

A BILL To reduce the duties on wool and manufactures of wool.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the first day of January, nineteen hundred and thirteen, the articles hereinafter enumerated, described, and provided for shall, when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), be subjected to the duties hereinafter provided, and no others; that is to say:

1. On wool of the sheep, hair of the camel, goat, alpaca, and other like animals, and on all wools and hair on the skin of such animals, the duty shall be twenty per centum ad valorem.

2. On all noils, top waste, card waste, slubbing waste, roving waste, ring waste, yarn waste, bur waste, thread waste, garnetted waste, shoddies, mungo, flocks, wool extract, carbonized wool, carbonized noils, and on all other wastes and on rags composed wholly or in part of wool, and not specially provided for in this act, the duty shall be twenty per centum ad valorem.

3. On combed wool or tops and roving or roping, made wholly or in part of wool or camel's hair, and on other wool and hair which have been advanced in any manner or by any process of manufacture beyond the washed or scoured condition, not specially provided for in this act, the duty shall be twenty-five per centum ad valorem.

4. On yarns made wholly or in part of wool, the duty shall be thirty per centum ad valorem.

5. On cloths, knit fabrics, felts not woven, and all manufactures of every description made, by any process, wholly or in part of wool, not specially provided for in this act, the duty shall be forty per centum ad valorem.

6. On blankets and flannels, composed wholly or in part of wool, the duty shall be thirty per centum ad valorem: *Provided,* That on flannels composed wholly or in part of wool, valued at above fifty cents per pound, the duty shall be forty-five per centum ad valorem.

7. On women's and children's dress goods, coat linings, Italian cloths, bunting, and goods of similar description and character, composed wholly or in part of wool, and not specially provided for in this act, the duty shall be forty-five per centum ad valorem.

8. On clothing, ready-made, and articles of wearing apparel of every description, including shawls whether knitted or woven, and knitted articles of every description made up or manufactured wholly or in part, and not specially provided for in this act, composed wholly or in part of wool, the duty shall be forty-five per centum ad valorem.

9. On webbings, gorings, suspenders, braces, bandings, beltings, bindings, braids, galloons, edgings, insertings, flouncings, fringes, gimps, cords, cords and tassels, ribbons, ornaments, laces, trimmings, and articles made wholly or in part of lace, embroideries and all articles embroidered by hand or machinery, head nets, nettings, buttons or barrel buttons or buttons of other forms for tassels or ornaments, and manufactures of wool ornamented with beads or spangles of whatever material composed, on any of the foregoing made of wool or of which wool is a component material, whether containing india rubber or not, the duty shall be thirty-five per centum ad valorem.

10. On Aubusson, Axminster, moquette, and chenille carpets, figured or plain, and all carpets or carpeting of like character or description, the duty shall be forty per centum ad valorem.

11. On Saxony, Wilton, and Tournay velvet carpets, figured or plain, and all carpets or carpeting of like character or description, the duty shall be thirty-five per centum ad valorem.

12. On Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, the duty shall be thirty per centum ad valorem.

13. On velvet and tapestry velvet carpets, figured or plain, printed on the warp or otherwise, and all carpets or carpeting of like character or description, the duty shall be thirty-five per centum ad valorem.

14. On tapestry Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, printed on the warp or otherwise, the duty shall be thirty per centum ad valorem.

15. On treble ingrain, three-ply, and all-chain Venetian carpets, the duty shall be thirty per centum ad valorem.

16. On wool Dutch and two-ply ingrain carpets, the duty shall be twenty-five per centum ad valorem.

17. On carpets of every description, woven whole for rooms, and Oriental, Berlin, Aubusson, Axminster, and similar rugs, the duty shall be fifty per centum ad valorem.

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18. On druggets and bockings, printed, colored, or otherwise, the duty shall be twenty-five per centum ad valorem.

19. On carpets and carpeting of wool, flax, or cotton, or composed in part of any of them, not specially provided for in this act, and on mats, matting, and rugs of cotton, the duty shall be twenty-five per centum ad valorem.

20. Mats, rugs for floors, screens, covers, hassocks, bed sides, art squares, and other portions of carpets or carpeting, made wholly or in part of wool, and not specially provided for in this act, shall be subjected to the rate of duty herein imposed on carpets or carpeting of like character or description.

21. Whenever in this act the word "wool" is used in connection with a manufactured article of which it is a component material, it shall be held to include wool or hair of the sheep, camel, goat, alpaca, or other like animals, whether manufactured by the woolen, worsted, felt, or any other process.

SEC. 2. That on and after the day when this act shall go into effect all goods, wares, and merchandise previously imported, and hereinbefore enumerated, described, and provided for, for which no entry has been made, and all such goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subjected to the duties imposed by this act and no other duty, upon the entry or the withdrawal thereof.

SEC. 3. That all acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed. This act shall take effect and be in force on and after the first day of January, nineteen hundred and thirteen

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VIEWS OF THE MINORITY.

The very able and complete report of the Tariff Board on wool was presented to the House on the 20th of December last. The majority members of the Committee on Ways and Means have had it now for over three months for deliberation, and it is to be presumed that it has been read by some of them, at least. Upon the facts contained in this report it seems that they are not able to make any changes in the bill heretofore introduced in the House by the chairman of that committee. They have again brought that bill into the House as the best that the party they represent is able to present on the subject of a tariff on wool. They have apparently settled down upon the conviction that no amount of information is of any avail in the formation of a Democratic tariff bill for revenue only.

The minority of the committee have, however, framed a bill based upon the facts set forth in the report of the Tariff Board, a copy of which bill is attached to these views, and which the minority have offered in committee as a substitute, and also propose to offer in the House. The report of the Tariff Board has been read through carefully, and the duties fixed in this bill are based upon the report of the board.

The minority of the committee have endeavored to adjust the rates in accordance with the doctrine of protection by prescribing a duty equivalent to the difference in the cost of production at home and abroad as found by the board. In fixing the rate of duty upon wool they have adopted the system of a specific duty per pound upon the clean content of the wools. This plan of a duty upon the clean content of the wools was first suggested by a Republican member of the Committee on Ways and Means more than three years ago, and an investigation was had to endeavor to carry it into effect because of the suggestion made them. The Tariff Board took up the investigation of the subject, and their report shows in the most conclusive way why an ad valorem rate on wool should not be adopted.

The argument in brief is:

If the basic idea of the duty on wools is to give the domestic grower permanent protection, it should remain as uniformly effective as possible under all changes of foreign conditions. Ad valorem duties would not accomplish this, being ineffective in times of overproduction and low prices abroad and giving an unnecessarily high protection in times of scarcity and high prices in foreign countries.

In this view they are in harmony with every Secretary of the Treasury except Walker, and with every foreign Government.

The method recommended by them of a duty on the clean content and adopted in this bill is fair, practical, equitable, and easy of enforcement. There is no difficulty in arriving at the clean content in any package of wool. Such a duty avoids all the inequities growing

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out of the present system of a pound rate upon wool in the grease increased and multiplied to equalize the duty in the various stages of its manufacture. There is no equalization in the present system, while there is absolute equality when the duty on the clean content is adopted. The method of ascertainment is simple and absolutely correct. With all the defects pointed out in the ad valorem system and all the merits in this system we are led to wonder why the latter was not adopted by the majority of the committee. Why should they run the risk of destroying any industry by duties grossly inadequate when they have ample and correct data?

We have divided wools into two instead of three classes, uniting former class 1 and class 2 into class 1 in this bill and making class 3 class 2 of this bill. There is no reason why there should be any distinction in a tariff bill between the first two classes. We have fixed the rate of duty on class 1 of this bill at 18 cents per pound on the clean content of the wool. This measures the difference between the cost of production at home and abroad on nearly all the wool imported and the bulk of the wool grown in the United States, especially in the Western States.

Under the present law our imports have been largely confined to raw wools, which produce the largest percentage of scoured wool. Under the "skirting clause" all but the very best wool in the fleece was cut out and much of the Australian and South American wools imported into the United States produced a much larger percentage of clean wools than those imported into Great Britain and Germany. We were cut off from the importation of a large class of wools which were very valuable for use in manufacture, but were also so conditioned that our people could not afford to pay the duty of 11 or 12 cents per pound upon the large amount of dirt included in the natural fleece. This bill opens the wool markets of the world to us and still preserves the home market for the American producer.

In the various manufactures of wool we have been able to correct the inequitable duties put upon wool in the present law. In other words, the compensatory rates in the present law are out of proportion to the necessary rates on the amount of wool used in manufacture. Under our proposed bill, by the aid of the Tariff Board's report, we have been able to fix with a high degree of accuracy the actual amount of clean wool used in the article manufactured and the waste incurred in manufacture, so that the various specific duties that we have placed upon yarns, cloths, and clothing represent only the actual amount of wool consumed in the various manufacturing processes. There will be no difficulty in administering this part of the law. All vegetable fibers can be easily removed from the wool by carbonization. The amount of wool actually used, even in a suit of clothes, can be determined with great accuracy at the customhouse. We have been abundantly assured of these facts by experts in the customs service. These processes will prevent the collection of a wool duty upon the cotton, so largely used in manufacturing cloths, and will make a radical reduction in the high ad valorem rates which resulted from the compensatory rates under the present law.

The Tariff Board's report was a revelation on the subject of conversion costs at home and abroad. The fiction in reference to the greater efficiency of the American laborer in the textile industries

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was most thoroughly exploded. The board found that the English spinner was capable of producing a larger output than his American rival by reason of the fact that the maximum speed of the loom has been attained in England. The weekly wage was much less abroad. The thorough investigation by the Tariff Board of these questions, making so many comparisons of the cost, not alone of the weekly wage nor of piecework, but the cost of making goods in quantities of a thousand yards of the same quality in each instance in the United States and in Great Britain or France justifies the conclusions of the board. The tests reported prove absolutely that, generally speaking, taking into consideration experience, efficiency, wages, and every other element, the labor cost per yard in the United States is double that of the labor cost abroad. The board used so many examples and reported upon them so clearly that it was not difficult to figure the duty necessary to compensate for the difference in cost at home and abroad of the conversion of wool into its various forms of manufactures. Upon the manufactured articles we have therefore taken the clean content duty upon the wool used and upon no other material used. Then we have added an ad valorem duty equal to the difference in conversion cost and the result has been a radical reduction in the rates, amounting on the average to 40 per cent.

On the goods made largely of cotton, which now enter so extensively into the woolen industry, the reduction of rates will be very marked. It would be impossible to show how great this reduction is until we have actual importations of these goods under this bill, if enacted into law, because we have now no report showing the amount of cotton admixture which pays duty as wool.

We have made the greater reduction of rates on the cheaper classes of goods. We have made a great reduction on combed wool, or tops, but we have put the actual specific pound duty on the wool used and a 5 per cent ad valorem, which will cover the difference in cost of conversion.

We have reduced the duty on woolen rags and flocks from 10 to 2 cents a pound. The 10 cents was placed there to exclude rags from abroad, the idea being that the rags coming in would contain infectious and disease germs and be undesirable; but it is found that 2 cents a pound will keep out all the old worn rags and let in at competitive rates only the rags from new cloth, such as the cuttings from tailor-made clothing and the like, a desirable product to use in the manufacture of cloth and clothing.

On the wools of class 2, carpet wools, we have made a radical change in the duties. Carpet wools are from the fleeces of native sheep which have not been improved by admixture of other blood, and of which none are now produced in this country. There is, therefore, from a protectionist point of view, no need for a duty on such wools. Its removal will interfere with no domestic industry. The objection urged to making these wools free of entry heretofore has been that some portions of some of the fleeces are used in manufacturing clothing. The percentage has been small, but to guard against any use of such wools in making clothing we have provided that the duty shall be paid and a drawback shall be allowed upon proving that such wools have been consumed in the manufacture of carpets.

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This makes the wools free when manufactured into carpets and dutiable when used in making clothing.

The treatment of the two classes of wools in the Underwood bill and in the proposed substitute bill illustrates the difference in the two theories. We would put a duty upon the wools imported of class 1, of which we produce about three-fifths of our consumption, equal to the difference in cost in order to protect the growing of wool in this country. But where we do not produce the wool, as in class 2, and need it as material for manufacturing, we let it in free of duty. On the other hand, every bill introduced by the majority during this Congress has reduced the duty on the manufactured goods, when the article is produced in this country, to a point which generally cuts off American competition in our own markets. And if the material was not produced here and had to be imported, and was necessary for use in manufacturing, the majority have put a revenue duty upon the material in order, avowedly, to cripple the manufacturer who uses such material. With free carpet wools we have greatly reduced the duty on carpets. The subject of the cost of converting wool into carpets was not treated in the report of the Tariff Board, but we have positive information that the reduced duties in the bill here presented will be sufficient to cover the difference in production cost at home and abroad.

When this bill of the majority, H. R. 11019, was presented to the House on the 6th of June last, the views of the minority contained the following, which we now reiterate:

It is difficult to understand on any economic principle why this bill is pressed just at this time. We have a Tariff Board, at an annual expense of $250,000, which has been engaged for several months in the investigation of Schedule K, and we are assured that this board will be ready to report fully on the 1st of December next. The wool schedule is difficult and intricate, and directly involves the welfare and living of more than a half million people. Changes, when made, should be with the greatest care and study and with all the intelligent aid we can muster.

Without any hearings or new data, with no information later than that of two years ago, this bill is forced upon the House at the mandate of a political caucus. There can be no expectation that it will pass the other House or be even considered there before December next, at least.

The bill itself is unlike any legislation ever attempted on this subject, and is a radical departure from all party platforms and economic principles.

The only reason or excuse for the existence of this bill is that given by the Democratic caucus in their resolution. As the caucus seems to be the only body doing any legislating at this time, the action taken at the time it put this bill upon its passage must be taken as expressing the views of the majority. The caucus resolution was passed along with the adoption of this bill, and was put into the Congressional Record at the same time the bill was introduced in the House. The caucus edict has also gone forth that no amendment will be allowed in the House. The caucus is supreme, the House is its weak echo.

The caucus resolution tells us that this bill "is not to be construed as the abandonment of any Democratic policy," but in view of "the depleted and depleting condition of the Public Treasury—a result of Republican extravagance—a tariff of 20 per cent ad valorem on raw wool is now proposed as a revenue necessity."

"Revenue necessity" is the only reason so far given for this tariff on raw wool.

The statement as to the condition of the Treasury here given is absolutely false, as proven by Treasury daily statement. On May 31, the day before this caucus, there was an actual surplus of receipts over disbursements for the past 11 months of the fiscal year which will end on the 30th day of this month of June of $6,875,914.37. One year ago, on May 31, 1910, there was a deficit for the like period of 11 months of $13,275,110.35. The Treasury was not de-

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pleted, but was better off by $20,151,024.72 on the date of the caucus than on the same day in 1910. This gain has increased daily since, and is now about $22,000,000.

The Secretary's report made in December last shows a surplus of receipts over expenditures at the close of the year June 30, 1910, of $15,806,328.94.

On this same basis, with corporation-tax receipts coming in, the surplus on June 30, next, for the year will be more than $36,000,000.

In the words of the most distinguished Democratic leader:

"Let no Democratic advocate of a tax on wool masquerade behind the pretense that he is voting for a revenue tariff; let him not add hypocrisy to the sin he commits against his party."

The bill is not drawn on lines for the production of revenue on raw wool. With a duty of 20 per cent on wool the duty on manufactured cloth is too low to enable our manufacturers to pay the wool duty and still compete with imported cloths. The bill is much worse than the Wilson for the weavers of cloth. Under that the wool was free and the duties on woolens greater. What wool came in would come as cloths under this bill.

But the mills here on most lines must soon close, and the farmer, unable to find market for his wool, must destroy his flocks. The experience under the Wilson bill demonstrates this.

This bill was printed for the use of the caucus, together with some statistics, which we are promised will appear in the committee report.

On page 22 of the caucus print appears a summary of estimated imports and duties, from which we extract:

Items.	Results under present law for year ending June 30, 1910.	Estimated results for 12-month period under proposed law.	Increase.
Raw wool, imports	$47,687,293.20	$66,991,000.00	$19,293,706.80
Manufactures of wool, imports	23,057,357.78	63,831,000.00	40,773,357.78

Value per pound, $0.186.

Dividing the above increase in imports of raw wool ($19,293,706.80) by the value given ($0.186 per pound), we have an increased import of raw wool, estimated by this committee in weight of 103,800,000 pounds.

The above increase in fabrics imported was $40,773,642.22, of which 60 per cent is estimated to be the value of the wool to make the fabrics—$24,464,185.33.

The fabric is estimated at $1 per pound, and it takes 3½ pounds of wool in the fleece to make a pound of cloth. Multiplying the above by 3½ we have a result of pounds of raw wool of 85,621,147.60; a total of wool imports equivalent to 189,421,147 pounds, which is equivalent to 60 per cent of the annual production of domestic wool, averaging less than 315,000,000 pounds.

We do not care to go into the many objections to this bill which we might urge.

For purely political reasons this cold-blooded measure is brought forward. If it could become a law, it would slaughter the sheep as in 1894 and close the mills much more universally.

Instead of the deficit in the revenues for the fiscal year ending June 30, 1911, predicted by the chairman of the Committee on Ways and Means, the official reports show a surplus of $47,234,377.10—a pretty healthy showing for a "depleted and depleting condition of the Public Treasury." The official returns up to date indicate a surplus of not less than $35,000,000 for the present fiscal year. What new excuse will be invented now for a revenue duty on Schedule K can not be conjectured until the majority report is seen.

We invite the majority to cooperate with us in passing the bill we present, and make a radical reduction now, instead of preventing a reduction by adhering to their bill on Schedule K.

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In notes to the bill we append we have shown the changes of the rates from the present law in such instances as there is no change in classification.

SERENO E. PAYNE.
JOHN DALZELL.
S. W. MCCALL.
E. J. HILL.
J. C. NEEDHAM.
NICHOLAS LONGWORTH.

[H. R. 22262, Sixty-second Congress, second sesssion.]

A BILL To amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, be, and the same is hereby, amended by striking out all of the paragraphs of Schedule K of section one of said act, from three hundred and sixty to three hundred and ninety-five, inclusive of both, and inserting in place thereof the following:

1. All wools, hair of the camel, goat, alpaca, and other like animals shall be divided, for the purpose of fixing the duties to be charged thereon, into the two following classes:

2. Class one, that is to say, merino, mestiza, metz, or metis wools, or other wools of merino blood, immediate or remote, Down clothing wools, and wools of like character with any of the preceding, including Bagdad wool, China lamb's wool, Castel Branco, Adrianople skin wool or butcher's wool, and such as have been heretofore usually imported into the United States from Buenos Aires, New Zealand, Australia, Cape of Good Hope, Russia, Great Britain, Canada, Egypt, Morocco, and elsewhere, and Leicester, Cotswold, Lincolnshire, Down combing wools, Canada long wools, or other like combing wools of English blood, and usually known by the terms herein used, and all wools not hereinafter included in class two, and also the hair of the camel, Angora goat, alpaca, and other like animals.

NOTE.—This paragraph includes paragraphs 1 and 2 of the present law.

3. Class two, that is to say, Donskoi, native South American, Cordova, Valparaiso, native Smyrna, Russian camel's hair, and all such wools of like character as have been heretofore usually imported into the United States from Turkey, Greece, Syria, and elsewhere, excepting improved wools hereinafter provided for.

4. The standard samples of all wools, which are now or may be hereafter deposited in the principal custom-houses of the United States under the authority of the Secretary of the Treasury, shall be the standards for the classification of wools under this act, and the Secretary of the Treasury is authorized to renew these standards and to make such additions to them from time to time as may be required, and he shall cause to be deposited like standards in other custom-houses of the United States when they may be needed.

5. Whenever wools of class two shall have been improved by the admixture of merino or English blood, from their present character, as represented by the standard samples now or hereafter to be deposited in the principal custom-houses of the United States, such improved wools shall be classified for duty as class one.

6. If any bale or package of wool or hair specified in this act, invoiced or entered as of class two, or claimed by the importer to be dutiable as of class two, shall contain any wool or hair subject to the rate of duty of class one, the whole bale or package shall be subject to the rate of duty chargeable on wool of class one; and if any bale or package be claimed by the importer to be shoddy, mungo, flocks, wool, hair, or other material of any class specified in this act, and such bale contain any admixture of any one or more of said materials, or of any other material, the whole bale or package shall be subject to duty at the highest rate imposed upon any article in said bale or package.

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7. The duty on all wools and hair of class one, if imported in the grease, shall be laid upon the basis of its clean content. The clean content shall be determined by scouring tests, which shall be made according to regulations which the Secretary of the Treasury may prescribe. The duty on all wools and hair of class one imported in the grease shall be eighteen cents per pound on the clean content, as defined above. If imported scoured, the duty shall be nineteen cents per pound.

NOTE.—Present law, duty on wool in the grease, class 1, 11 cents; class 2, 12 cents per pound; this bill, 18 cents per pound on the clean content.

8. The duty on all wools of class two, including camel's hair of class two, imported in their natural condition, shall be seven cents per pound. If scoured, nineteen cents per pound: *Provided*, That on consumption of wools of class two, including camel's hair, in the manufacture of carpets, druggets and bockings, printed, colored, or otherwise, mats, rugs for floors, screens, covers, hassocks, bedsides, art squares, and portions of carpets or carpeting hereafter manufactured or produced in the United States in whole or in part from wools of class two, including camel's hair, upon which duties have been paid, there shall be allowed to the manufacturer or producer of such articles a drawback equal in amount to the duties paid less one per centum of such duties on the amount of the wools of class two, including camel's hair of class two, contained therein; such drawback shall be paid under such rules and regulations as the Secretary of the Treasury may prescribe.

NOTE.—Present law, when valued at not over 12 cents a pound, 4 cents per pound; when valued at over 12 cents a pound, 7 cents a pound. The above provision makes these wools free of duty when used in the manufacture of carpets.

9. The duty on wools on the skin shall be two cents less per pound than is imposed upon the clean content, as provided for wools of class one, and one cent less per pound than is imposed upon wools of class two imported in their natural condition, the quantity to be ascertained under such rules as the Secretary of the Treasury may prescribe.

10. Top waste and slubbing waste, eighteen cents per pound.

NOTE.—Present law, 30 cents per pound; this bill, 18 cents per pound.

11. Roving waste and ring waste, fourteen cents per pound.

NOTE.—Present law, 30 cents per pound; this bill, 14 cents per pound.

12. Noils, carbonized, fourteen cents per pound.

13. Noils, not carbonized, eleven cents per pound.

NOTE.—Present law, all noils 20 cents per pound; this bill, noils, carbonized, 14 cents per pound; not carbonized, 11 cents per pound.

14. Garnetted waste, eleven cents per pound.

NOTE.—Present law, 30 cents per pound; this bill, 11 cents per pound.

15. Thread waste, yarn waste, and wool wastes not specified, nine and one-half cents per pound.

NOTE.—Present law, 20 cents per pound; this bill, 9½ cents per pound.

16. Shoddy, mungo, and wool extract, eight cents per pound.

NOTE.—Present law, shoddy, 25 cents per pound; mungo, 10 cents per pound; wool extract, 20 cents per pound; this bill, 8 cents per pound.

17. Woolen rags and flocks, two cents per pound.

NOTE.—Present law, 10 cents per pound; this bill, 2 cents per pound.

18. Combed wool or tops, made wholly or in part of wool, or camel's hair, twenty cents per pound on the wool contained therein, and in addition thereto five per centum ad valorem.

NOTE.—Present law, tops valued at not over 20 cents per pound, 24¾ cents per pound and 30 per cent ad valorem; valued over 20 cents a pound, 36¾ cents per pound and 30 per cent ad valorem; this bill, all tops 20 cents per pound and 5 per cent ad valorem.

19. Wool and hair which have been advanced in any manner or by any process of manufacture beyond the washed or scoured condition, but less ad-

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vanced than yarn, not specially provided for in this section, twenty cents per pound on the wool contained therein, and in addition thereto eight per centum ad valorem.

NOTE.—Present law, valued at not more than 40 cents a pound, 33 cents per pound and 50 per cent ad valorem; valued above 40 cents and not above 70 cents, 44 cents per pound and 50 per cent ad valorem; valued at over 70 cents, 44 cents per pound and 55 per cent ad valorem; this bill, 20 cents per pound and 8 per cent ad valorem.

20. On yarns, made wholly or in part of wool, valued at not more than thirty cents per pound, the duty shall be twenty-one and one-half cents per pound on the wool contained therein, and in addition thereto ten per centum ad valorem.

NOTE.—Present law, 27½ cents per pound and 35 per cent ad valorem; this bill, 21½ cents per pound and 10 per cent ad valorem.

Valued at more than thirty cents and not more than fifty cents per pound, twenty-one and one-half cents per pound on the wool contained therein, and in addition thereto fifteen per centum ad valorem.

NOTE.—Present law, 38½ cents per pound and 40 per cent ad valorem; this bill, 21½ cents per pound and 15 per cent ad valorem.

Valued at more than fifty cents and not more than eighty cents per pound, twenty-one and one-half cents per pound on the wool contained therein, and in addition thereto twenty per centum ad valorem.

NOTE.—Present law, 38½ cents per pound and 40 per cent ad valorem; this bill, 21½ cents per pound and 20 per cent ad valorem.

Valued at more than eighty cents per pound, twenty-one and one-half cents per pound on the wool contained therein, and in addition thereto twenty-five per centum ad valorem.

NOTE.—Present law, 38½ cents per pound and 40 per cent ad valorem; this bill, 21½ cents per pound and 25 per cent ad valorem.

21. On cloths, knit fabrics, flannels, felts, and all fabrics of every description made wholly or in part of wool, not specially provided for in this section, valued at not more than forty cents per pound, the duty shall be twenty-five cents per pound on the wool contained therein, and in addition thereto thirty per centum ad valorem.

NOTE.—Present law, 33 cents per pound and 50 per cent ad valorem; this bill, 25 cents a pound and 30 per cent ad valorem.

Valued at more than forty cents and not more than sixty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto thirty-five per centum ad valorem.

NOTE.—Present law, 44 cents per pound and 50 per cent ad valorem; this bill, 26 cents per pound and 35 per cent ad valorem.

Valued at more than sixty cents and not more than eighty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto forty per centum ad valorem.

NOTE.—Present law, valued at more than 60 cents and not above 70 cents, 44 cents a pound and 50 per cent ad valorem; valued at more than 70 cents and not more than 80 cents, 44 cents per pound and 55 per cent ad valorem; this bill, 26 cents per pound and 40 per cent ad valorem.

Valued at more than eighty cents and not more than one dollar per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto forty-five per centum ad valorem.

NOTE.—Present law, 44 cents a pound and 55 per cent ad valorem; this bill, 26 cents per pound and 45 per cent ad valorem.

Valued at more than one dollar and not more than one dollar and fifty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto fifty per centum ad valorem.

NOTE.—Present law, 44 cents per pound and 55 per cent ad valorem; this bill, 26 cents per pound and 50 per cent ad valorem.

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Valued at more than one dollar and fifty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto fifty-five per centum ad valorem.

NOTE.—Present law, 44 cents per pound and 55 per cent ad valorem; this bill, 26 cents a pound and 55 per cent ad valorem.

22. On blankets and flannels for underwear composed wholly or in part of wool, valued at not more than forty cents per pound, the duty shall be twenty-three and one-half cents per pound on the wool contained therein, and in addition thereto twenty per centum ad valorem.

NOTE.—Present law, 22 cents per pound and 30 per cent ad valorem; this bill, 23½ cents per pound on the wool content and 20 per cent ad valorem.

Valued at more than forty cents and not more than fifty cents per pound, twenty-three and one-half cents per pound on the wool contained therein, and in addition thereto twenty-five per centum ad valorem.

NOTE.—Present law, 33 cents per pound and 35 per cent ad valorem; this bill, 23½ cents per pound on the wool content and 25 per cent ad valorem.

Valued at more than fifty cents per pound, twenty-three and one-half cents per pound on the wool contained therein, and in addition thereto thirty per centum ad valorem.

NOTE.—Present law, 33 cents per pound and 40 per cent ad valorem; this bill, 23½ cents per pound on the wool content and 30 per cent ad valorem.

Flannels pay the same duty as women's dress goods, coat linings, etc., and are rated in yards and not in pounds.

Provided, That on blankets over three yards in length the same duties shall be paid as on cloths.

23. On ready-made clothing and articles of wearing apparel, knitted or woven, of every description, made up or manufactured wholly or in part and composed wholly or in part of wool, the rate of duty shall be as follows:

If valued at not more than forty cents per pound, the duty shall be twenty-five cents per pound on the wool contained therein, and in addition thereto thirty-five per centum ad valorem.

If valued at more than forty cents and not more than sixty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto forty per centum ad valorem.

If valued at more than sixty cents and not more than eighty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto forty-five per centum ad valorem.

If valued at more than eighty cents and not more than one dollar per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto fifty per centum ad valorem.

If valued at more than one dollar and not more than one dollar and fifty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto fifty-five per centum ad valorem.

If valued at more than one dollar and fifty cents per pound, twenty-six cents per pound on the wool contained therein, and in addition thereto sixty per centum ad valorem.

24. On all manufactures of every description made wholly or in part of wool, not specially provided for in this section, the duty shall be twenty-six cents per pound on the wool contained therein, and in addition thereto fifty per centum ad valorem: *Provided*, That if the component material of chief value in such manufactures is wood, paper, rubber, or any of the baser metals, the duty shall be twenty-six cents per pound on the wool contained therein, and in addition thereto thirty-five per centum ad valorem, and if the component material of chief value in such manufactures is silk, fur, precious or semi-precious stones, or gold, silver, or platinum, the duty shall be twenty-six cents per pound on the wool contained therein, and in addition thereto fifty-five per centum ad valorem.

25. On handmade Aubusson, Axminster, Oriental, and similar carpets and rugs, made wholly or in part of wool, the rate of duty shall be fifty per centum ad valorem; on all other carpets of every description, druggets and bockings, printed, colored, or otherwise, mats, rugs for floors, screens, covers, hassocks, bedsides, art squares, and portions of carpets or carpeting made wholly or in part of wool the duty shall be thirty per centum ad valorem.

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26. Whenever, in any schedule of this act, the word "wool" is used in connection with a manufactured article of which it is a component material, it shall be held to include wool or hair of the sheep, camel, goat, alpaca, or other animal, whether manufactured by the woolen, worsted, felt, or any other process.

27. The foregoing paragraphs, providing the rates of duty herein for manufactures of wool, shall take effect on the first day of January, nineteen hundred and thirteen.

NOTE.—The rates given above do not show the full change in the duty, because under the present law the duty per pound is applicable to the weight only on the amount of scoured wool consumed in the manufacture. The same applies to clothing, but in a still greater degree, so that no comparison with the pound and ad valorem rates are made under that paragraph.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 458.

OLD POST-OFFICE BUILDING, CHARLESTON, S. C.

MARCH 7, 1912—Referred to the House Calendar and ordered to be printed.

Mr. RODDENBERY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany H. R. 20688.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 20688) transferring the custody and control of the old post-office building in the city of Charleston, S. C., from the Treasury Department to the Department of Commerce and Labor, beg leave to report the same with the recommendation that the bill do pass.

Since the completion of the new Federal building in Charleston, several years ago, the old building has been occupied by the officials of the sixth lighthouse district. The custody and control of the building still remains with the Treasury Department, however. The bill seeks to transfer this authority to the Department of Commerce and Labor, inasmuch as the Lighthouse Service is a branch of that department. There are no offices in the building occupied for the use of the Treasury Department, and it seems proper that the Department of Commerce and Labor should have jurisdiction over the building.

The views of the Secretary of the Treasury on the matter are set forth in the following letter:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., December 9, 1910.

SIR: The old post-office building in the city of Charleston, S. C., is under the custody and control of the Treasury Department, but is occupied at present and has been so occupied for a number of years by the officials of the sixth lighthouse district, and it is desired by the Department of Commerce and Labor that its custody and control be transferred to that department.

As the building is no longer required for post-office purposes and is used and occupied only for purposes connected with the Department of Commerce and Labor, I have the honor to recommend that the custody and control thereof be transferred, by appropriate legislation, to that department.

Respectfully,

FRANKLIN MACVEAGH,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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As authority for the transfer of this building is desired by the Treasury Department and the Department of Commerce and Labor, and in view of the fact that a conflict of authority may be avoided by having the jurisdiction of all matters connected with the Lighthouse Service vested in one department, the committee recommends the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 459.

RELIEF OF CERTAIN HOMESTEADERS IN NEBRASKA.

MARCH 27, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CLAYPOOL, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 20498.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 20498) for the relief of certain homesteaders in Nebraska whose entries were made under the one-section act, approved April 28, 1904, respectfully submit the following report:

That the bill be amended as follows:

Line 3, page 1, after the word "all," insert "such"; and in the same line, after the word "entries," insert "which have"; and after the word "heretofore," in the same line, insert "been."

Line 4, after the word "permitted," insert "erroneously."

With the above amendments, the bill would read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all such additional or second homestead entries which have heretofore been permitted erroneously to be made under the act entitled "An act to amend the homestead laws as to certain unappropriated and unreserved public lands in Nebraska," approved April twenty-eighth, nineteen hundred and four, by entrymen who were possessed at the time of such entry of more than one hundred and sixty acres of land, independently of the former entry, but qualified in other respects, are hereby validated in cases where cancellations shall not have been made.

The object of the bill is to afford relief to entrymen under the act whose entries were regarded as valid by entrymen, their attorneys, the district land office officials and the Interior Department officials when they were made, but which are now held to be invalid, meanwhile the residence and improvement requirements of the law having been complied with in perfect good faith by the entrymen. United States Land Office officials for several years accepted without question the character of entries now held invalid, advising that the same were valid, and the Department of the Interior recognized and sanctioned such entries as legally permissible. Such entries are still held to be valid under the second section of the one-section act provided for Nebraska, approved April 28, 1904, but are now held not to be per-

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missible under the provisions of the third section of that act, hence relief is sought by the present bill. The second section of the act reads as follows:

SEC. 2. That entrymen under the homestead laws of the United States within the territory above described who own and occupy the lands heretofore entered by them may, under the provisions of this act, and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned, and occupied, exceed in the aggregate six hundred and forty acres; and residence continued and improvements made upon the original homestead, subsequent to the making of the additional entry, shall be accepted as equivalent to actual residence and improvements made upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same, except in favor of entrymen entitled to credit for military service.

The third section reads as follows:

SEC. 3. That the fees and commissions on all entries under this act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price. That the commutation provisions of the homestead law shall not apply to entries under this act, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than $1.25 per acre for each acre included in his entry: *Provided*, That a former homestead entry shall not be a bar to the entry under the provisions of this act of a tract which, together with the former entry, shall not exceed 640 acres: *Provided*, That any former homestead entryman who shall be entitled to an additional entry under section 2 of this act shall have for ninety days after the passage of this act the preferential right to make additional entry as provided in said section.

The bill has been submitted to the Secretary of the Interior and his favorable report thereon accompanies this report. It is pertinent to here state that this legislation was voluntarily suggested and recommended by the Secretary of the Interior, prompted by reason of the fact that the circumstances of the case of entryman Edward P. Meyers before him upon appeal, involving the identical difficulty which it is the purpose of the pending bill to relieve, appealed to him so strongly for equitable relief. As a consequence, the Secretary suspended a decision in that case for the purpose of affording time to the Congress to pass a special act for the relief of that entryman. As there were a few other cases precisely like it, the bill was prepared to cover the Meyers case and similar cases. The following is a copy of the letter of the Secretary of the Interior written to entryman Meyers suggesting such legislation, with his promise to make favorable report upon such a bill to the Committee on the Public Lands should one be submitted to him for his recommendation:

DEPARTMENT OF THE INTERIOR,
Washington, February 1, 1912.

Mr. EDWARD P. MEYERS
(Care Greene, Breckenridge, Gurley & Woodrough),
City National Bank Building, Omaha, Nebr.

SIR: The department has considered your appeal from the decision of the Commissioner of the General Land Office of August 19, 1911, holding for cancellation your additional homestead entry, No. 5601, under the act of April 28, 1904 (33 Stat., 547), made July 15, 1905, for the NE. ¼, sec. 20, NW. ¼ NW. ¼, S. ½ NW. ¼, SW. ¼ NE. ¼, N. ½ SW. ¼, and N. ½ SE. ¼, sec. 21, T. 20 N., R. 37 W., Broken Bow, Nebr., land district, on the ground that you were at the time of making said entry disqualified from making homestead entry by virtue of your ownership of more than 160 acres of land acquired otherwise than through a former entry.

After careful examination of the showing made by you in support of said appeal and after consideration of the points of law advanced by brief and oral argument in support thereof, it is found that the conclusion reached in the decision complained of is fully warranted. In view of the fact, however, that you were allowed to make said entry and your showing of compliance with law thereunder and the placing of various

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substantial improvements thereon, the department will suspend final cancellation of said entry during the present session of Congress to afford you opportunity to submit the matter to your Member of Congress, looking to the introduction of a bill for your relief. Should said bill be submitted for its consideration, the department will make favorable report thereon.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

The favorable report of the Secretary of the Interior upon the bill reads as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 4, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: I have the honor to acknowledge receipt of your request for a report on H. R. 20498, "A bill for the relief of certain homesteaders in Nebraska." Said bill provides for the validation of all uncanceled additional or second homestead entries heretofore made under the act of April 28, 1904 (33 Stat., 347), commonly known as the Kinkaid Act, where the entrymen's sole disqualification to make their entries consisted of the fact that they owned more than 160 acres of land independently of their former entries.

The ownership of land secured under the Kinkaid Act does not disqualify an applicant from making an additional entry under the second section thereof, as amended by the act of May 29, 1908 (35 Stat., 465), nor does the ownership of land acquired under the general homestead law disqualify such an applicant from making entry under the third section of the act. However, on February 1, 1912, this department, in acting on the appeal of Edward P. Meyers from the decision of the General Land Office, held that an entry for 480 acres under the Kinkaid Act, made by a person who owned more than 160 acres acquired otherwise than through a former entry, was invalid. In view of the fact that the claimant had been allowed to make the entry and had thereafter shown compliance with the law and placed substantial improvements on the land, the department suspended final cancellation of the entry during the present session of Congress, in order to afford opportunity for the introduction of a bill for his relief.

The department is in receipt of a communication from Hon. M. P. Kinkaid, stating that he has learned of probably a half dozen cases similar to Meyers's case, and suggesting that the present bill would afford relief to all of these entrymen, to which they are in justice and equity entitled.

This department recommends that the proposed legislation be enacted into law.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

For the reason that entries of the character for which relief is being sought were permitted and encouraged by the proper officials for several years, and that entrymen have in the meantime complied with the requirements of the law with respect to residence and have made valuable improvements, it is the opinion of the committee that justice and equity demand that the relief sought be accorded.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 460.

POLICE AND FIREMEN'S PENSIONS, DISTRICT OF COLUMBIA.

MARCH 28, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. REDFIELD, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 20840.]

The Committee on the District of Columbia, to whom was referred House bill 20840, report the same back to the House with the recommendation that it do pass with the following amendments:

Page 1, lines 10 and 11, strike out the words "payment of police and firemen's pensions and relief in the District of Columbia: *Provided*, That" and insert in lieu thereof the words "benefit of the police relief fund, District of Columbia, and of the firemen's relief fund, District of Columbia."

Page 2, lines 1 and 2, strike out the words "fund or funds for the payment of the police and firemen's pensions and relief" and insert in lieu thereof "police relief fund, District of Columbia, and the firemen's relief fund, District of Columbia, as now."

Page 2, line 3, strike out the word "Treasurer" and insert in lieu thereof the words "Secretary of the Treasury."

Page 2, line 4, after the words "in the" strike out the words "fund for payment of police and firemen's pensions and relief" and insert in lieu thereof "police relief fund, District of Columbia, or firemen's relief fund, District of Columbia."

Page 2, line 7, after the comma which follows the word "Columbia" strike out the word "pay" and insert in lieu thereof "cause to be paid."

Page 2, lines 10 and 11, after the word "said" strike out the words "police and firemen's pensions and relief fund" and insert in lieu thereof "police relief fund, District of Columbia, or firemen's relief fund, District of Columbia."

Page 2, line 13, strike out section 2 and insert in lieu thereof:

SEC. 2. That the tax, the levy and collection of which is herein provided for, shall be an additional one, over and above the tax rate now provided for by general law, and the proceeds thereof shall not be used for any purpose other than that hereinbefore authorized. Said tax shall be levied and collected as above provided by the Commissioners of the District of Columbia at the same time as the tax on all property now subject to general taxation in the said District. There shall be no contribution to either of the aforesaid funds, either directly or indirectly, from the United States.

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The Commissioners of the District of Columbia are hereby directed on the first day of each and every month until the first collection of taxes under this act shall have become available, to draw a requisition upon the Secretary of the Treasury of the United States for such sum or sums as will, when added to the amount already to the credit of each of the hereinbefore named funds, be sufficient to pay in full the amount lawfully due each and every person upon the roll of the police relief fund, District of Columbia, as well as those upon the roll of the firemen's relief fund, District of Columbia; and the said Secretary of the Treasury shall cause to be paid the amount of said requisition for the said purposes out of any moneys in the Treasury to the credit of the District of Columbia, which can, in the opinion of the said commissioners, be spared for the time being from any fund held by the said Treasury for the District of Columbia: *Provided, however*, That any money so used shall be repaid to the fund from which it was taken, out of the first money collected under the tax herein provided for: *And provided, further*, That no part of the money gathered under said levy shall be paid to those upon the rolls of either of the said two relief funds until all of the money taken out of the Treasury as aforesaid shall have been refunded thereto.

SEC. 3. That all acts or parts of acts which are in conflict herewith are hereby repealed. This act shall take effect upon its passage.

The object of this bill is to provide a permanent and definite source from which deficiencies now existing in the police relief fund, District of Columbia, and the firemen's relief fund, District of Columbia, may be paid, and to provide the method of such payment. In Senate Report No. 429, Sixtieth Congress, first session, dated March 27, 1908, the legislation concerning the above funds and the results thereof was reviewed and statements given showing the operation of the funds. In the report of the hearings on H. R. 22322, Sixtieth Congress, second session, before the Subcommittee on Incorporations of the House Committee on the District of Columbia, dated April 29, 1910, the operations of the funds were further reviewed and brought down to date, and an abstract was printed of the firemen's pension laws in force in 20 cities of the United States. The act by which the salaries of the officers and members of the Metropolitan police of the District of Columbia are fixed is that approved June 8, 1906, and the act by which the salaries of the officers and members of the fire department are fixed is that approved June 20, 1906.

Your committee have thought it well to bring down to date the facts concerning the operations of these funds, and they are shown in detail below.

Statement showing cash receipts and expenditures of firemen's relief fund, fiscal years 1898–1911, inclusive.

Fiscal year.	Donations, fines, and miscellaneous receipts.	From $1 per month retained from pay of officers.	Police-court fines deposited in the firemen's relief fund.	Dog taxes deposited in the firemen's relief fund.	Total receipts.	Total expenditures.
1898	$302.00	$2,471.70	$4,556.99	.....	$7,830.69	$9,706.67
1899	573.25	2,375.25	6,466.29	.....	9,414.79	9,414.79
1900	629.50	2,602.34	9,311.30	.....	12,534.14	12,534.14
1901	760.00	2,978.29	9,891.74	$53.93	13,683.96	13,683.96
1902	14.67	3,048.07	13,805.40	110.09	16,978.23	16,978.23
1903	80.00	3,433.24	14,364.72	.....	17,877.96	17,877.96
1904	10.00	3,938.61	16,893.70	.....	20,842.31	20,842.31
1905	25.00	3,901.41	18,091.96	.....	22,018.37	22,018.37
1906	16.00	4,251.98	23,844.86	.....	28,112.84	28,112.84
1907	70.00	4,381.88	28,974.79	.....	33,426.67	33,426.67
1908	.....	4,630.54	32,104.97	130.00	36,865.51	36,865.51
1909	55.00	4,979.63	33,421.54	.....	38,456.17	35,156.17
1910	70.00	5,128.01	32,629.38	.....	37,827.39	38,958.67
1911	5.00	5,288.59	34,909.21	.....	40,202.80	[1] 38,946.24
Total	3,101.42	53,409.54	279,266.85	294.02	336,071.83	334,522.53

[1] Deficiency for 1911 in addition to expenditures as above stated of $5,262.

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Statement showing cash receipts and expenditures of police relief fund for fiscal years 1898–1911, inclusive.

Fiscal year.	Donations, fines, and miscellaneous receipts.	For $1 per month retained from pay of officers.	Police-court fines deposited in the police fund.	Dog taxes deposited in the police fund.	Total receipts.	Total expenditures.
1898	$980.93	$6,534.15	$15,449.75	.....	$22,964.83	$26,860.32
1899	707.73	5,993.74	22,257.28	.....	28,958.80	28,958.80
1900	935.53	6,822.80	28,208.07	.....	35,966.40	35,966.40
1901	1,109.03	7,005.14	31,415.64	.....	39,529.81	39,529.81
1902	1,619.44	7,049.47	21,763.14	$16,100.58	46,532.63	46,532.63
1903	584.50	8,587.89	25,677.44	15,537.22	50,387.05	50,387.05
1904	1,447.94	8,213.41	30,726.60	14,533.23	54,921.18	54,921.18
1905	828.00	8,464.67	38,454.16	17,801.72	65,548.55	65,548.55
1906	887.50	8,603.35	46,579.94	18,266.27	74,337.06	74,337.06
1907	1,091.00	7,918.43	50,107.46	20,059.64	79,176.53	79,176.53
1908	2,487.34	9,420.14	49,157.53	21,424.08	82,489.09	82,489.08
1909	2,186.65	8,759.21	64,511.81	21,489.63	96,947.30	79,696.21
1910	2,355.08	8,754.51	52,871.14	21,921.63	85,902.36	98,292.27
1911	1,642.20	8,744.33	49,044.80	22,115.14	81,546.47	[1] 80,061.43
Total	18,862.92	110,871.24	526,224.76	189,249.14	845,208.06	842,757.32

[1] Deficiency for 1911 in addition to expenditures above stated of $10,304.30.

It will be noted that for the fiscal year ending June 30, 1911, there was a deficit in both funds of $15,566.30, and the pensioners failed to receive the amounts allotted to them by this sum. The auditor of the District of Columbia states that "the deficiency in the police and fire pension funds for the present fiscal year (ending June 30, 1912) is estimated to be about $25,000."

A brief epitomization of the policemen's roll shows that on March 1, 1912, there was a total monthly pay roll of $7,538 and a total of 254 persons pensioned. They are classified as follows: Retired policemen, 90; widows, 112; mother, 1; children, 51.

Of the policemen pensioned, the causes for pension are as follows:

Age	4
Arteriosclerosis	2
Arteriosclerosis and defective vision	1
Arteriosclerosis, nephritis, and bronchitis	1
Arteriosclerotic condition of the arteries of the heart	1
Cancer	1
Catarrh and deafness	1
Chronic bronchitis	1
Chronic cystitis	1
Chronic rheumatism	1
Chronic rheumatism, sciatica, and varicose veins	1
Chronic spondylitis	1
Consumption	2
Deafness	5
Defective eyesight	2
Defective eyesight and rheumatism	1
Defective vision and hearing and organic heart disease	1
Dislocation of ankle joint, injured in an accident, and rheumatism	1
Epilepsy	5
General debility	2
Grippe and exposure	1
Heart disease	1
Heart trouble	1
Heart trouble and hernia	1
Hemicrania	1
Hernia	1
Impaired vision and hearing	1
Infantile paralysis	1
Injured in line of duty	4
Injured in accident	2
Lesions in eyes and rapid heart	1
Locomotor ataxia	2
Ménière's disease and defective vision and hearing	1
Myocarditis	2
Necrosis of bone of head, injured in line of duty	1
Neurasthenia and insomnia	1
Paralysis, hydrocele, impaired vision, and mental incapacity	1
Periostitis, traumatic nephritis, injured in accident, and heart disease	1
Pulmonary tuberculosis	3
Pulmonary trouble	1
Pruritis ani	1
Rheumatism	8
Rheumatism and heart trouble	1
Rheumatoid arthritis	1
Rupture from injury	1
Spinal trouble	1
Stomach trouble	2
Stone in kidney	1
Tremor and defective vision	1
Tuberculosis	7
Tuberculosis of knee and hip joints, necessitating amputation of leg	1
Typhoid fever	1
Valvular heart trouble	1
Total	90

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FIRE DEPARTMENT.

A brief epitomization of the firemen's pension roll shows that on March 1, 1912, there was a total monthly pay roll of $3,880 and a total of 101 persons receiving pension. They are classified as follows: Retired firemen, 48; widows, 34; mothers, 4; children, 15.

Of the firemen pensioned the following causes are shown for granting pensions:

Heart trouble	2	Failing eyesight	1
Injured in line of duty	13	Cystitis	1
Age	4	Rheumatism	2
Tuberculosis	5	Hernia	1
Insanity	3	Epilepsy	1
Melancholia	1	Arteriosclerosis	1
General debility	9	Stomach trouble	1
Paralysis	2	Apoplexy	1

If comparison is made between the facts just above stated as of March 1, 1912, and those which existed March 1, 1908, the following appear:

In the case of firemen the average amount of pensions has increased from $43.91 to $48.96. One pensioner receives $100 per month, two $75 per month, four $65, one $60. No others receive more than $50. The average number of years served before retirement is now 16.4 instead of 20.33. The longest service before retirement is 38 years instead of 36, and the shortest remains 1 year 4 months. The smallest pension is $1 per month. The total monthly pay roll is now $3,830 compared with $3,074, and 101 persons are pensioned instead of 70. Of these, 48 are retired firemen as against 40 in 1908, 34 are widows as against 24, 4 are mothers instead of 5, and 15 children instead of 1.

A like comparison made with the policemen's roll of March 1, 1908, shows that on March 1, 1912, there was a total monthly pay roll of $7,538 compared with $6,921.50 four years ago. There are now 254 persons pensioned instead of 198. These are thus classified: Widows 112 in place of 81, children 51 in place of 25, retired policemen 90 instead of 92, and one mother.

The average number of years served previous to retirement is now 17.31 compared with 17.64 in 1908. The longest service before retirement, however, being 47 years instead of 43, and the shortest 6 months, as before. The average amount of pension paid each pensioner is now $29.68 instead of $34.96. The highest pension is $90 per month, of which there are 4. The lowest is $2 per month, and the various sums paid differ thus: $2, $3, $4, $5, $6, $7, $8, $9, $10, $12, $12.50, $20, $25, $30, $35, $40, $50, $75, $90.

All of the money for the policemen's relief fund and the firemen's relief fund has from the beginning been supplied by the District of Columbia. The Treasury of the United States has never contributed thereto. The present bill does not change this in any respect. Nor does the present bill alter the existing sources of supply. They remain what they have been and are in considerable part the contributions of the officers themselves, as the tables show. Not only, however, are the present revenues insufficient and fluctuating, but the tendency is for them to decrease and for the fund to increase. The present bill aims to provide a definite source of supply which will meet all deficits

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and prevent the injustice now existing to the pensioners to whom the District authorities have allotted pensions but who now fail to receive them in full.

Having taken for the basis of calculations a deficiency of $30,000 per annum (a sum which is double the deficiency of last year and 20 per cent larger than the estimated larger deficiency for the current year), the facts respecting the weight of this tax are as follows, these being furnished by the auditor of the District of Columbia:

1. Based on assessed valuation:
   1912 realty..... $330,322,487
   1911 personalty (1912 figures not yet available)..... 25,192,360

   355,514,8470=0.00085

   Or $0.0085 on $100.
   0.085 on $1,000.
   0.85 on $10,000.
2. Based on assessed valuation of real property alone:
   The rate would practically be the same, as the difference between the realty basis and the realty and personalty basis combined will not affect the rate within the fraction of 1 cent on $10,000.

It would appear, therefore, that on the basis of an enlarged deficiency as above the sum of money to be paid by tax per person owning property assessed at $1,000 would be 8½ cents a year.

Pay roll for fire department pensioners.

[Appropriation: Firemen's relief fund, District of Columbia.]

No.	Names.	Date pension granted.	Amount per month.	Service.		Cause of retirement.	Address.
	Firemen on retired list.			*Yrs.*	*mos.*		
1	Albin, J. A.	Aug. 1, 1905	$50.00	9	0	Heart trouble	Osceola, Nebr.
2	Angell, C.	Aug. 12, 1896	30.00			Widow	2402 Pennsylvania Ave. NW.
3	Auffort, C. F.	Apr. 1, 1906	50.00	3	4	Injured in line of duty.	1224 4½ St. SW.
4	Baxter, W. D.	Aug. 5, 1906	50.00	16	3	Insanity	1352 Valley Pl., Anacostia.
5	Beall, A. V.	Nov. 22, 1906	40.00			Widow	619 Morris St. NE.
6	Beall, H. P.	June 18, 1911	45.00			do	614 Longfellow St. NW.
7	Belt, K.	Dec. 14, 1906	50.00			do	266 North Capitol St.
8	Bieber, S.	Apr. 1, 1909	1.00	4	2	Tuberculosis	630 G St. SE.
9	Boss, C. S.	Jan. 1, 1902	65.00	25	0	Heart trouble	1928 15th St. NW.
10	Bradekamp, W. H. J.	June 1, 1905	50.00	21	0	General disability.	1020 26th St. NW.
11	Brown, C. E.	Oct. 15, 1911	75.00			Widow	498 C St. SW.
12	Burke, C. F.	Sept. 1, 1903	50.00	21	0	Failing eyesight	632 F St. SW.
13	Cady, W. P.	Feb. 1, 1906	50.00	20	0	Cystitis	1916 8th St. NW.
14	Carter, E. W.	Nov. 2, 1910	35.00			Widow	29 M St. NW.
15	Carter, A. N.	Aug. 1, 1908	20.00	1	6	Rheumatism	Alexandria, Va.
16	Caton, M. A.	Mar. 1, 1910	55.00			Widow	926 9th St. NE.
17	Clark, M. D.	Feb. 20, 1903	30.00			do	1402 S St. NW.
18	Collins, E. P.	Dec. 1, 1905	40.00	5	6	Epilepsy	29 Virginia Ave., SW.
19	Davis, M. W.	June 21, 1910	50.00	6	0	Injured in line of duty.	Clifton Forge, Va.
20	Dickson, M. E.	Dec. 9, 1909	25.00			Widow	665 Acker St. NE.
21	Dodge, E. S.	Jan. 27, 1905	50.00			do	435 5th St. NE.
22	Duleman, W.	July 1, 1910	30.00	20	0	General disability.	619 H St. SW.
23	Donaldson, A. M.	July 16, 1905	60.00	20	0	Injured in line of duty.	3401 Dent Place NW.
24	Donaldson, L. D.	Aug. 1, 1908	40.00	6	8	Acute confusional insanity.	Lorton, Va.
25	Drew, W. O.	Mar. 16, 1908	75.00	35	0	Age	3238 Prospect Ave. NW.
26	Edwards, R. A.	Oct. 15, 1910	35.00			Widow	1929 14th St. NW.
27	Frazier, J.	Mar. 1, 1899	50.00	30	0	Age	1001 Maryland Ave. NE.
28	Gaghan, C. B.	June 9, 1911	45.00			Widow	518 14th St. NE.
29	Gibbons, A. V.	Apr. 1, 1906	40.00			Mother	117 Pierce St., Anacostia.

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Pay roll for fire department pensioners—Continued.

No.	Names.	Date pension granted.	Amount per month.	Service.		Cause of retirement.	Address.
	Firemen on retired list—Continued.			*Yrs.*	*mos.*		
30	Giles, M. A	Apr. 1, 1906	$40.00			Mother	1420 M St. NW.
31	Griffin, J. E	May 20, 1896	30.00			Widow	Waverly, Ohio.
32	Grimm, A. L	Mar. 1, 1911	65.00	23	0	Insanity	Mount Rainier, Md.
33	Guy, J. O	Mar. 1, 1899	50.00	20	0	Stomach trouble	614 E St. SE.
34	Handy, W. B	Aug. 1, 1908	25.00	17	0	Injured in line of duty.	605 R St. NW.
35	Hughes, E. B	Dec. 8, 1910	50.00			Widow	807 10th St. NE.
36	Hyland, J. T	Jan. 1, 1902	50.00	19	0	General disability.	Laurel, Md.
37	Jacobs, H	June 24, 1911	35.00			Widow	915 12th St. NW.
38	Kane, J	July 1, 1901	50.00	23	7	Chronic rheumatism.	124 4th St. NE.
39	Keefe, W	Mar. 3, 1901	50.00			Widow	402 6th St. NW.
40	Kurtz, A. E	Nov. 22, 1903	35.00			do	3131 P St. NW.
41	Lenman, B. M	Jan. 13, 1894	30.00			do	340 East Poplar St., York, Pa.
42	Lewis, M. V	June 14, 1903	30.00			do	434 6th St. NE.
43	Lowe, M. R	July 28, 1895	40.00			do	502 G St. NE.
44	Lusby, M. E	Mar. 1, 1905	40.00			do	22 9th St. NE.
45	Luskey, W	Oct. 12, 1905	65.00	25	9	General disability.	904 K St. SE.
46	Maguire, M. R	Oct. 26, 1896	30.00			Widow	1110 K St. SE.
47	Mahorney, G	Feb. 1, 1902	30.00			do	3251 P St. NW.
48	Mahorney, W. T	Nov. 1, 1903	50.00	28	3	Injured in line of duty.	3274 P St. NW.
49	Mastin, L. A	May 1, 1902	30.00			Widow	207 E St. NE.
50	McGee, G. R	Aug. 16, 1909	40.00	5	0	Tuberculosis	1614 Swann St. NW.
51	Moriarty, J	Aug. 1, 1903	50.00	32	0	Age	1385 Quincy St. NE.
52	Mosheuvel, A. J	Jan. 24, 1912	30.00	12	0	Injured in line of duty.	630 New York Ave. NW.
53	Mulhall, F	Apr. 1, 1903	50.00	18	0	do	411 7th St. SE.
54	Mulhall, M. T	May 20, 1896	40.00			Widow	109 10th St. NE.
55	McLane, N. A	May 1, 1906	50.00			do	1152 Morse St. NE.
56	Offutt, J. M	June 6, 1911	50.00	17	0	Paralysis	Frederick, Md.
57	Oliver, J. H	July 3, 1911	50.00	20	6	General disability.	2917 Dumbarton Ave. NW.
58	O'Leary, J	Nov. 1, 1906	50.00	33	0	Arteriosclerosis	35 Massachusetts Ave. NW.
59	Parris, J	July 1, 1901	100.00	35	2	Age	439 Massachusetts Ave. NW.
60	Raitz, F. W	Sept. 1, 1908	50.00	9	6	Injured in line of duty.	606 G St. SE.
61	Robertson, W. E	Mar. 16, 1908	65.00	6	1	do	1217 G St. SE.
62	Rosenberger, C. M	Aug. 8, 1910	35.00			Widow	405 10th St. SE.
63	Savoy, A	Dec. 1, 1910	50.00	38	0	General disability.	618 10th St. NE.
64	Shaffer, C. E	Nov. 1, 1901	24.00	1	4	Injured in line of duty.	1227 C St. SW.
65	Shedd, M. E	July 1, 1906	40.00			Widow	149 T St. NW.
66	Shipley, S. P	Jan. 1, 1908	30.00	4	2	Melancholia	900 7th St. SE.
67	Smith, M. K	Jan. 11, 1909	50.00			Widow	1527 10th St. NW.
68	Smith, C. A	May 4, 1908	40.00			do	74 S St. NW.
69	Sorrell, W. T	Mar. 16, 1908	75.00	33	0	General disability.	340 McLane Ave. SW.
70	Sullivan, A. L	Sept. 25, 1894	30.00			Widow	1520 U St. NW.
71	Sullivan, D. B	July 17, 1907	40.00			do	3714 12th St. NE.
72	Sweeney, A	Dec. 1, 1888	30.00			do	2332 Georgia Ave. NW.
73	Sweeney, J	Apr. 1, 1906	40.00			Mother	1848 8th St. NW.
74	Sweeney, E. A	Feb. 1, 1911	50.00	4	5	Tuberculosis	1343 H St. NE.
75	Sweeney, J. A	Dec. 1, 1910	50.00	20	5	General disability.	1439 East Capitol St.
76	Taylor, G. W	June 22, 1910	50.00	7	0	Apoplexy	1704 Vermont Ave. NW.
77	Thomas, H	Sept. 1, 1903	50.00	16	2	Injured in line of duty.	1003 Florida Ave. NE.
78	Utterback, J. A	July 1, 1906	50.00	5	6	Tuberculosis	Steamboat Springs, Colo.
79	Virnstein, T. W	Apr. 4, 1906	50.00	1	9	do	Berwyn, Md.
80	Ward, J. H	July 1, 1908	50.00	7	7	Injured in line of duty.	Rockville, Md.
81	Wiles, M. T	Apr. 1, 1906	40.00			Mother	643 4th St. NE.
82	Williams, M. G	Dec. 20, 1893	30.00			Widow	1306 Pennsylvania Ave. SE.
83	Williams, D	Jan. 1, 1908	50.00	36	0	Injured in line of duty.	1212 24th St. NW.
84	Willig, J. F	Sept. 1, 1903	50.00	11	0	Ruptured	436½ H St. NW.
85	Willson, J. G	Mar. 1, 1899	50.00	9	1	General disability.	1924 9th St. NW.
86	Young, T. C	Oct. 13, 1911	50.00	6	3	Paralysis	3403 Dent Pl. NW.
87	Young, S. A	Feb. 5, 1907	40.00			Widow	3129 P St. NW.

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List of pensioners carried on police roll, Mar. 1, 1912.

No.	Names.	Date pension granted.	Amount per month.	Length of service.		Cause of retirement.	Address.
				Yrs.	*mos.*		
1	Auldridge, S. C	May 25, 1896	$30.00			Widow	722 8th St. SW.
2	Auldridge, J. T	May 7, 1901	20.00			do	1109 New Jersey Ave. NW.
3	Auldridge, M. J	do	10.00			Child	Do.
4	Auldridge, E. B	do	10.00			do	Do.
5	Anderson, M. L	Dec. 16, 1901	20.00			Widow	1920 13th St. NW.
6	Amiss, T. B	July 1, 1906	99.00	36	3	Epilepsy	St. Petersburg, Fla.
7	Auguste, G. G	Nov. 1, 1907	50.00	19	1	Deafness	1112 I St. SE.
8	Arnold, S. A	June 21, 1908	25.00			Widow	Anacostia, D. C.
9	Anderson, L. B	Oct. 1, 1908	50.00	47	0	Tremor and defective vision.	328 W St. SE.
10	Amos, M. L	Jan. 30, 1909	25.00			Widow	1469 Church St. NW.
11	Allen, W. T	Nov. 16, 1909	25.00	6	5	Neurasthenia and insomnia.	Knopf, Va.
12	Allen, M. E	June 25, 1910	25.00			Widow	1306 Monroe St. NW.
13	Austin, J. O	Feb. 15, 1911	47.50			do	Silver Springs, Md.
14	Als, M. A	July 13, 1911	25.00			do	801 2d St. SW.
15	Als, J. L	do	2.00			Child	Do.
16	Als, W. P	do	3.00			do	Do.
17	Als, J. C	do	10.00			do	Do.
18	Als, J. H	do	10.00			do	Do.
19	Acton, Joseph	Nov. 1, 1911	50.00	33	0	Cancer	316 Massachusetts Ave. NE.
20	Best, Mary	Jan. 25, 1892	20.00			Widow	1312 I St. NW.
21	Brosnan, Timothy	Sept. 1, 1892	50.00	26	10	Injured in accident	633 New Jersey Ave. NW.
22	Broderick, T. M	June 1, 1893	25.00	0	6	Rupture from injury.	Cherrydale, Va.
23	Blaisdell, M. E	Jan. 15, 1894	20.00			Widow	1211 16th St. NE.
24	Breen, Catherine	May 25, 1896	20.00			do	1357 U St. NW.
25	Britt, E. A	Sept. 6, 1897	20.00			do	1230 13th St. NW.
26	Burton, G. J	Sept. 4, 1900	40.00	1	6	Locomotor ataxia.	499 Blair Rd., Takoma Park, D. C.
27	Banagan, C. H	Nov. 1, 1903	40.00	11	0	Injured in line of duty.	1723 7th St. NW.
28	Blumer, Cora	Sept. 23, 1904	25.00			Widow	614 Pa. Ave. SE.
29	Boucher, Annie	Jan. 29, 1905	25.00			do	69 K St. NE.
30	Boucher, Francis	do	10.00			Child	Do.
31	Boucher, Harry	May 17, 1905	10.00			do	Do.
32	Bloom, W. F	Oct. 1, 1905	50.00	17	1	Rheumatism	518 Newark Ave., Jersey City, N. J.
33	Burns, M. B	Sept. 10, 1905	25.00			Widow	421 9th St. SW.
34	Bartel, Charles	Feb. 1, 1906	35.00	6	11	Heart disease	U. S. Naval Magazine, Fort Mifflin, Pa.
35	Buckley, S. W	July 1, 1906	50.00	9	2	Tuberculosis	Clifton Station, Va.
36	Byrarly, M. B	Nov. 22, 1908	25.00			Widow	Albany St. and Conduit Rd.
37	Behrens, Elizabeth	Dec. 17, 1909	25.00			do	307 G St. NW.
38	Bailey, A. M	Jan. 29, 1910	25.00			do	1521 P St. NW.
39	Burrows, M. A	Jan. 23, 1912	25.00			do	2720 N. St. NW.
40	Coomes, S. A	Aug. 21, 1887	20.00			do	114 S. Gilmore St., Baltimore, Md.
41	Crippen, Florence	Nov. 5, 1889	30.00			do	902 9th St. NW.
42	Collins, S. H	June 1, 1891	50.00	19	8	Deafness	1408 31st St. NW.
43	Cross, C. F	Jan. 1, 1899	20.00	1	11	do	Glencarlyn, Va.
44	Carrington, W. M	Sept. 1, 1900	45.00	7	11	Pulmonary tuberculosis.	1924 15th St. NW.
45	Ciscle, A. L	Aug. 9, 1907	25.00			Widow	Great Falls, Mont.
46	Catts, R. E	Jan. 3, 1909	20.00			do	621 23d St. NW.
47	Cornwell, S. E	Apr. 16, 1909	35.00	7	5	Chronic rheumatism, sciatica, and varicose veins.	916 Prince St., Alexandria, Va.
48	Cramer, M. E	Aug. 15, 1909	25.00			Widow	2115 I St. NW.
49	Case, A. M	June 25, 1911	20.00			do	Bladensburg Rd.
50	Cattell, H. P	Mar. 1, 1912	50.00	28	7	Arteriosclerosis, nephritis, and bronchitis.	2300 18th St. NW.
51	Duvall, E. J	Dec. 4, 1900	50.00	27	1	Injured in accident	1336 R St. NW.
52	Dodge, H. A	Aug. 10, 1902	40.00	10	0	Epilepsy	Congress Heights, D. C.
53	Dailey, Jane	June 10, 1907	30.00			Widow	218 4th St. SE.
54	Dunnington, M. E	Mar. 29, 1909	30.00			do	622 N. C. Ave. SE.
55	Dunn, J. G	Oct. 1, 1911	50.00	11	10	Pulmonary tuberculosis.	Marshall, Va.
56	Ellis, E. A	May 18, 1896	30.00			Widow	642 G St. SE.

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List of pensioners carried on police roll, Mar. 1, 1912—Continued.

No.	Names.	Date pension granted.	Amount per month.	Length of service.		Cause of retirement.	Address.
				Yrs.	mos.		
57	Embrey, E. H.	Aug. 28, 1910	$20.00			Widow	Morrisville, Va.
58	Embrey, A. L.	do	7.00			Child	Do.
59	Embrey, M. C.	do	8.00			do	Do.
60	Easley, E. M.	Dec. 27, 1911	20.00			Widow	Wisconsin Ave., Tenley, D. C.
61	Easley, M. K.	do	10.00			Child	Do.
62	Fitzgerald, T. D	Feb. 16, 1891	50.00	12	10	Heart trouble and hernia.	102 M St. NW.
63	Ferguson, A. H.	Apr. 3, 1891	25.00			Widow	115 East Virginia Ave., Arlington, Md.
64	Farquhar, Charles	Nov. 1, 1898	50.00	24	10	Injured in line of duty.	Manassas, Va.
65	Fitzgerald, Margaret	Aug. 18, 1901	25.00			Widow	1232 10th St. NW.
66	Fisher, H. H.	Nov. 22, 1901	50.00	23	0	Impaired vision and hearing.	Anona, Fla.
67	Fifield, J. N.	Jan. 1, 1903	50.00	36	8	Age	519 9th St. NW.
68	Frank, N. E.	Jan. 19, 1906	25.00			Widow	1712 15th St. NW.
69	Frank, W. J.	do	10.00			Child	Do.
70	Frank, E. A.	do	10.00			do	Do.
71	Flynn, Effie	Feb. 9, 1907	25.00			Widow	27 Q St. NE.
72	Fletcher, N. E.	Feb. 27, 1908	25.00			do	Savannah St., Congress Heights.
73	Fletcher, G. W.	do	10.00			Child	Do.
74	Fletcher, M. E.	do	10.00			do	Do.
75	Fowler, S. J.	Mar. 4, 1909	50.00			Widow	217 13th St. SE.
76	Foster, M. E.	June 4, 1909	25.00			do	1413 G St. NW.
77	Fisher, M. B.	June 6, 1911	25.00			do	117 Hickman St. NE.
78	Flenniken, W. C.	Jan. 25, 1912	25.00			do	3530 T St. NW.
79	Greene, M. V.	Mar. 26, 1890	25.00			do	Conduit Rd.
80	Guy, M. L.	June 8, 1892	40.00			do	1010 New Hampshire Ave. NW.
81	Gantz, William	Sept. 16, 1892	30.00	13	7	Valvular heart trouble.	415 Q St. NW.
82	Gessford, Susie	Mar. 7, 1902	35.00			Widow	4600 14th St. NW.
83	Gouldman, L. P.	June 1, 1903	50.00	6	10	Epilepsy	Fredericksburg, Va., Box 102.
84	Green, E. S.	Sept. 1, 1906	40.00	10	3	Pulmonary tuberculosis.	Phoenix, Ariz., Box 132.
85	Gallaher, M. J.	July 12, 1908	30.00			Widow	1416 Chapin St. NW.
86	Gordon, A. B.	Jan. 17, 1909	25.00			do	313 4th St. NE.
87	Gordon, F. B.	do	10.00			Child	Do.
88	Green, L. M.	Aug. 1, 1909	25.00			Widow	478 W St., Anacostia.
89	Green, D. R.	do	3.00			Child	Do.
90	Green, Z. E.	do	10.00			do	Do.
91	Green, A. W.	do	10.00			do	Do.
92	Harper, J. G.	June 1, 1886	35.00	13	2	Rheumatism	Fort Hunt, Va.
93	Hathaway, M. L.	Jan. 1, 1897	20.00			Widow	701 A St. NE.
94	Harlow, R. M.	July 16, 1897	50.00	25	8	Rheumatism and heart trouble.	1134 Park Pl. NE.
95	Haynes, W. R.	Apr. 7, 1898	20.00	8	9	Rheumatism	Ardwick, Md.
96	Heller, T. B.	Sept. 25, 1899	25.00			Widow	3562 11th St. NW.
97	Heller, Hazel	do	10.00			Child	Do.
98	Herndon, Laura	Sept. 17, 1899	20.00			Widow	613 Elliott St. NE.
99	Howe, E. A.	Nov. 25, 1899	30.00			do	421 8th St. SE.
100	Henry, A. E.	Jan. 5, 1900	25.00			do	494 G St. SW.
101	Heare, E. F.	Aug. 4, 1900	20.00			do	Berkley Springs, W. Va.
102	Heare, G. B.	do	10.00			Child	Do.
103	Hess, G. A.	Dec. 1, 1901	50.00	34	10	General disability.	1827 34th St. NW.
104	Hibl, Frank	Apr. 10, 1903	25.00	12	2	Spinal trouble	107 E. 26th St., New York, N. Y.
105	Heffner, J. E.	Feb. 16, 1904	90.00	35	1	General disability.	1934 8th St. NW.
106	Hinkle, E. G.	Sept. 1, 1905	35.00	12	5	Epilepsy	Occoquan, Va.
107	Hinkel, A. M.	May 19, 1906	25.00			Widow	119 C St. SE.
108	Hartigan, C. C.	Jan. 21, 1908	25.00			do	31 H St. NE.
109	Hartigan, H. J.	do	9.00			Child	Do.
110	Hartigan, M. A.	do	10.00			do	Do.
111	Herbert, M. E.	Apr. 10, 1910	25.00			Widow	498 G St. SW.
112	Hutchinson, M. A.	Apr. 24, 1910	25.00			do	1419 Pennsylvania Ave. SE.
113	Hackett, F. W.	Nov. 16, 1910	50.00	8	5	Chronic spondylitis.	Berkeley Springs, W. Va.
114	Hunt, A. B.	Oct. 1, 1911	50.00	18	7	Menier's disease, and defective vision and hearing.	Landover, Md.

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List of pensioners carried on police roll, Mar. 1, 1912—Continued.

No.	Names.	Date pension granted.	Amount per month.	Length of service.		Cause of retirement.	Address.
				Yrs.	mos.		
115	James, S. R.	Aug. 13, 1899	$30.00			Widow	807 F St. SW.
116	Jones, L. C.	Nov. 29, 1902	30.00			do	1156 Columbia Ave., Baltimore, Md.
117	Joyce, J. E.	July 21, 1904	50.00	10	0	Locomotor ataxia.	Greenwich, N. Y.
118	Jordan, W. W.	July 1, 1905	75.00	20	0	Epilepsy	U. S. Soldiers' Home Hospital, Washington, D.C.
119	Jackson, W. J.	Oct. 1, 1909	50.00	39	1	Arteriosclerosis	1629 10th St. NW.
120	Kenner, M. A.	Sept. 28, 1890	30.00			Widow	The Kingman Flat.
121	Kerby, K. A.	Apr. 30, 1895	20.00			do	2606 L St. NW.
122	Kenney, Charles	Mar. 1, 1900	40.00	16	9	Catarrh and deafness.	2027 14th St. NW.
123	Knupfer, L. J.	Sept. 27, 1909	25.00			Widow	1013 10th St. NW.
124	Knupfer, L. E.	do	10.00			Child	Do.
125	Kelly, M. H.	Sept. 14, 1909	15.00			Widow	907 French St. NW.
126	Kemp, M. A.	Nov. 21, 1909	25.00			do	243 K St. NE.
127	Kemp, R. L.	Nov. 21, 1909	10.00			Child	243 K St. NE.
128	Kemp, F. E.	do	10.00			do	Do.
129	Kramer, L. C.	Oct. 15, 1911	25.00			Widow	230 12th St. SE.
130	Kramer, L. L.	do	2.00			Child	Do.
131	Kramer, J. S.	do	3.00			do	Do.
132	Kramer, E. B.	do	9.00			do	Do.
133	Kramer, G. J.	do	10.00			do	Do.
134	Lamb, M. E.	May 16, 1899	25.00			Widow	459 H St. NW.
135	Loane, J. T. S.	Oct. 1, 1903	50.00	32	11	Arteriosclerosis	221 8th St. SE.
136	Lally, Helena	Aug. 25, 1904	25.00			Widow	457 57th St., Brooklyn, N. Y.
137	Lally, Ann	do	10.00			Child	Do.
138	Lombardy, Charles	Oct. 12, 1905	50.00	27	4	Hernia	514 11th St. SE.
139	Lyddane, J. E.	Oct. 1, 1907	50.00	32	2	Heart trouble	3208 Q St. NW.
140	Loftus, Jane	July 11, 1908	25.00			Widow	410 New Jersey Ave. SE.
141	Lewis, C. H.	Sept. 29, 1911	25.00			do	1601 New Jersey Ave. NW.
142	Lile, M. M.	Jan. 1, 1912	50.00	6	8	Tuberculosis of knee and hip joint, necessitating amputation of leg.	1338 Pennsylvania Ave. SE.
143	Lewis, D. W.	Mar. 1, 1912	50.00	26	5	Defective vision, hearing, and organic heart disease.	514 13th St. NW.
144	McMahon, William	Jan. 11, 1900	50.00	28	5	Grippe and exposure.	2650 Wisconsin Ave. NW.
145	McNamara, M. M.	Nov. 24, 1901	20.00			Widow	2409 18th St. NW.
146	McDonald, J. A.	July 1, 1902	40.00	6	0	Tuberculosis	2809 Dumbarton Ave. NW.
147	McNamara, J. P.	Apr. 1, 1904	50.00	19	0	Rheumatoid arthritis.	1110 6th St. SW.
148	McGlue, E. C.	Nov. 19, 1905	30.00			Widow	610 22d St. NW.
149	McCathran, M. E.	Mar. 14, 1907	45.00			do	511 10th St. SE.
150	McCarthy, N. M.	Apr. 8, 1910	25.00			do	1605 A St. SE.
151	McCarthy, J. M.	do	5.00			Child	Do.
152	McCarthy, M. C.	do	5.00			do	Do.
153	McCarthy, S. A.	do	7.00			do	Do.
154	McCarthy, J. L.	do	7.00			do	Do.
155	Milstead, F. E.	July 30, 1892	20.00			Widow	709 16th St. NE.
156	Moore, Ellen	Jan. 15, 1893	25.00			do	1742 N. Capitol St.
157	Moore, M. G.	July 13, 1898	50.00			do	1454 Euclid St. NW.
158	Marr, W. F.	Aug. 1, 1899	50.00	27	2	Defective eyesight and rheumatism.	52 O St. NW.
159	Marshall, M. E.	Dec. 25, 1899	25.00			Widow	1315 P St. NW.
160	Morgan, George	Dec. 5, 1903	30.00	4	2	Defective eyesight.	928 W. 36th St., Los Angeles, Cal.
161	Morgan, J. T.	Oct. 1, 1904	50.00	43	0	Age	1601 Meridan Pl. NW.
162	Middleton, J. W.	do	40.00	26	3	do	5216 Parkside Ave., West Philadelphia, Pa.
163	Murphy, Rose	Dec. 21, 1904	25.00			Widow	124 N. Grove St., Baltimore, Md.
164	Murphy, Edward	do	10.00			Child	Do.
165	Murphy, Ruth	do	10.00			do	Do.
166	Moore, C. S.	Mar. 18, 1906	40.00			Widow	1255 I St. NE.
167	Moore, L. R.	do	9.00			Child	Do.
168	Moore, J. F.	do	10.00			do	Do.

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List of pensioners carried on police roll, Mar. 1, 1912—Continued.

No.	Names.	Date pension granted.	Amount per month.	Length of service.		Cause of retirement.	Address.
				Yrs.	*mos.*		
169	Moore, G. C.	Mar. 18, 1906	$10.00			Child	1255 I St. NE.
170	Myers, C. C.	Dec. 1, 1907	50.00	33	2	Myocarditis	1635 Wisconsin Ave. NW.
171	Mansfield, A. S.	Dec. 26, 1907	25.00			Widow	1210 11th St. SE.
172	Mansfield, A. E.	do	12.00			Child	Do.
173	Mathews, N. V.	Mar. 6, 1909	45.00			Widow	321 5th St. SE.
174	Mulhall, W. B.	Oct. 1, 1910	50.00	8	2	Periostitis, traumatic nephritis, injured in accident, and heart disease.	1104 12th St. NW.
175	Matthews, A. M.	Aug. 22, 1911	25.00			Mother	74 L St. NE.
176	Nevitt, T. J.	May 12, 1903	35.00	3	10	Tuberculosis	Chiltons, Va.
177	Nicholson, M. A.	Dec. 22, 1904	25.00			Widow	60 S St. NW.
178	O'Brien, J. F.	July 29, 1911	25.00			do	Nansemond Apartment, suite No. 2.
179	Oliver, Elias	Aug. 1, 1899	50.00	31	10	Chronic rheumatism.	616 T St. NW.
180	Osburn, W. F.	Mar. 8, 1903	50.00	6	5	Pulmonary trouble	Round Hill, Va.
181	Parker, B. C.	May 4, 1895	20.00			Widow	31 F St. NW.
182	Posey, C. P.	Oct. 1, 1898	25.00	3	4	Deafness	Brightwood, D. C.
183	Passau, M. E.	May 18, 1899	10.00			Child	3048 M St. NW.
184	Payne, M. A.	Apr. 18, 1902	25.00			Widow	1736 15th St. NW.
185	Payne, R. T.	do	10.00			Child	Do.
186	Peyton, C. B.	May 1, 1904	20.00	3	9	Pruritis ani	6002 First Ave. NE., Seattle, Wash.
187	Pindar, M. E.	Aug. 1, 1904	30.00	4	7	Defective eyesight.	3 The Alton, Ann St., Newburgh, N. Y.
188	Perry, J. J.	July 11, 1905	50.00	16	0	Tuberculosis	1117 6th St. SW.
189	Pearson, Isaac	Oct. 1, 1905	90.00	38	7	Age	1514 T St. NW.
190	Proctor, M. E.	Apr. 20, 1906	30.00			Widow	719 4th St. SE.
191	Parham, Jessie	Feb. 14, 1909	25.00			do	621 22d St. NW.
192	Parham, M. M.	do	10.00			Child	Do.
193	Poland, M. L.	Feb. 1, 1911	50.00	6	9	Infantile paralysis.	3139 O St. NW.
194	Pearson, R. C.	Dec. 29, 1911	25.00			Widow	124 Tennessee Ave. NE.
195	Quinlan, J. C.	May 4, 1899	20.00			do	72 K St. NW.
196	Redway, Loriotta	Dec. 29, 1889	25.00			do	Harmon, Cal.
197	Robie, William	Apr. 19, 1897	35.00	6	9	Consumption	Pomfret, Md.
198	Redgrave, S. L.	July 16, 1897	50.00	11	5	Rheumatism	Fairfax, Va.
199	Rodgers, Mabelle	June 22, 1897	10.00			Child	945 G St. SW.
200	Rinck, L. E. W.	Feb. 28, 1902	25.00			Widow	638 L St. NE.
201	Riley, Eli	Nov. 9, 1904	50.00	32	4	Rheumatism	Tenley, D. C.
202	Rhodes, S. J.	Apr. 10, 1905	30.00			Widow	3010 Georgia Ave. NW.
203	Robertson, Edna	June 21, 1905	25.00			do	40 Bates St. NW.
204	Ray, E. T.	Sept. 23, 1906	25.00			do	25 Sumner St., Orange, N. J.
205	Rollf, J. T.	Oct. 1, 1907	40.00	18	8	Stomach trouble	Washington Grove, Md.
206	Reynolds, M. J.	Feb. 1, 1908	25.00			Widow	1401 E. Capitol St.
207	Robey, C. E.	June 25, 1910	20.00			do	1940 Park Ave., Chicago, Ill.
208	Slack, M. E.	Nov. 28, 1891	20.00			do	420 6th St. NW.
209	Sutton, M. D.	Mar. 31, 1898	20.00			do	134 Mass. Ave, NE.
210	Stamler, George	June 16, 1898	50.00	15	0	Rheumatism	725 10th St. NE.
211	Stearns, Frederick	Oct. 16, 1898	50.00	7	9	Injured in line of duty.	722 12th St. NE.
212	Smoot, L. R.	Aug. 1, 1899	40.00	6	0	Tuberculosis	Newberg, Md.
213	Smith, L. V.	Jan. 4, 1903	25.00			Widow	445 10th St. SW.
214	Sullivan, M. V.	Mar. 29, 1904	25.00			do	222 Q St. NW.
215	Smith, Barbara	July 8, 1904	30.00			do	3019 Cambridge St. NW.
216	Stewart, John	Sept. 1, 1904	30.00	20	3	Stone in kidney	1009 E. Capitol St.
217	Sawyer, J. L. H.	Oct. 14, 1905	50.00	17	2	Chronic cystitis	Silver Springs, Md.
218	Sullivan, John	Dec. 1, 1905	50.00	14	9	Rheumatism	3504 Madison St. NW.
219	Speer, M. A.	Feb. 4, 1907	25.00			Widow	613 R. I. Ave. NW.
220	Schultse, C. M.	May 17, 1907	25.00			do	508 1st St. SE.
221	Stahl, Edward	Feb. 1, 1908	50.00	24	9	Myocarditis	232 12th St. SE.
222	Swindells, J. A.	May 1, 1909	90.00	42	3	Arteriosclerosis and defective vision.	3328 Q St. NW.
223	Sutton, M. C.	June 22, 1910	40.00			Widow	1201 Q St. NW.
224	Sprinkle, J. F.	Sept. 16, 1911	50.00	8	2	Tuberculosis	924 Madison St.
225	Tilling, Andrew	Sept. 16, 1891	12.50	2	2	Typhoid fever	Forestville, Md.
226	Treadwell, H. L.	Dec. 6, 1893	20.00			Widow	501 S. 23d St., St. Louis, Mo.
227	Trainor, Eugene	Oct. 1, 1898	50.00	10	3	Deafness	1722 8th St. NW.

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List of pensioners carried on police roll, Mar. 1, 1912—Continued.

No.	Names.	Date pension granted.	Amount per month.	Length of service.		Cause of retirement.	Address.
				Yrs.	*mos.*		
228	Thompson, B. M.	June 3, 1905	$25.00			Widow	Vienna, Va.
229	Thompson, G. L.	do	10.00			Child	Do.
230	Teeple, K. A.	July 3, 1905	30.00			Widow	616 8th St. NE.
231	Upperman, R. C.	May 1, 1908	50.00	22	1	Lesions in the eyes and rapid heart.	Fairfax, Va.
232	Volkman, L. F.	May 13, 1905	30.00			Widow	3300 Prospect Ave. NW.
233	Vernon, F. A.	Nov. 28, 1906	40.00			do	719 F St. SW.
234	Virnstein, Annie	Jan. 22, 1908	25.00			do	128 F St. SE.
235	Virnstein, M. L.	do	10.00			Child	Do.
236	Wheeler, G. L.	Sept. 1, 1895	50.00	17	5	Consumption	Falmouth, Va.
237	Wannall, H. C.	July 16, 1897	50.00	9	0	Hemicrania	1029 New Jersey Ave. NW.
238	Wiggans, M. A.	May 8, 1901	20.00			Widow	Station E., Gen. Del., Cincinnati, Ohio.
239	West, W. H.	Sept. 1, 1901	30.00	29	11	Chronic bronchitis	422 New York Ave. NW.
240	Wright, L. E.	Nov. 9, 1904	35.00	5	7	Injured in line of duty.	Cummings, Ga.
241	Willis, C. B.	Mar. 1, 1905	35.00	12	8	Tuberculosis	Remington, Va.
242	Wannall, M. E.	Feb. 18, 1905	25.00			Widow	639 E St. SE.
243	Wannall, B. L.	do	6.00			Child	Do.
244	Wannall, B. T.	do	10.00			do	Do.
245	Willingham, C. H.	Mar. 1, 1906	45.00	8	11	Rheumatism	503 B St. SE.
246	Wilson, Julianna	Nov. 21, 1906	30.00			Widow	224 8th St. SE.
247	White, G. C.	Dec. 1, 1907	40.00	6	3	Stomach trouble	Burke Station, Va.
248	Watson, R. C.	Apr. 1, 1909	50.00	15	1	Dislocation of ankle joint, injured in accident, rheumatism.	1114 5th St. NW.
249	Walker, E. A.	Oct. 1, 1909	50.00	7	6	Necrosis of bone of head, injured in line of duty.	132 Adams St. NW.
250	Wilson, W. S.	do	40.00	7	2	Arteriosclerotic condition of arteries of heart.	2113 Benning Rd. NE.
251	Yetton, I. B.	Nov. 10, 1908	25.00			Widow	644 G St. SE.
252	Yetton, E. S.	do	10.00			Child	Do.
253	Zych, M. J.	Nov. 1, 1911	10.00			do	1344 4½ St. SW.
254	Tayman, J. H.	Mar. 1, 1912	50.00	31	6	Paralysis, hydrocele, impaired vision, and mental incapacity.	Fort Myer Heights, Va.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 470.

LEASE OF SCHOOL LANDS FOR PUBLIC PARK PURPOSES.

MARCH 28, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany S. 2577.]

The Committee on the Public Lands, to whom was referred the bill (S. 2577) to authorize the lease of school lands for public park purposes by the State of Washington for a longer period than five years, having had the same under consideration, respectfully report the same back to the House with the recommendation that it do pass.

It appears to the committee that the lands in question were originally surveyed by the Government in 1860, and that at the time the State was admitted into the Union the fee title to this land passed to the State of Washington, under the enabling act of February 22, 1889 (25 Stat., 681). That enabling act, by which the State of Washington came into the Union, contains a prohibition against the leasing of any of the State school lands by the State to any one person or company for a period of more than five years. While the lands belong absolutely to the State as part of their school lands, nevertheless, the State having obtained title to the land under the terms and conditions of an enabling act, which in one sense may be considered an agreement between the State and the Government of the United States, by which it was provided that the school lands would never be leased for more than five years, the question is whether or not the State legislature has the right, without the consent of the Government, to vary the terms of that enabling act.

To avoid any question about it, this bill is introduced for the purpose of granting permission to the State legislature to vary the terms of that enabling act by leasing the lands described for public park purposes for such terms and under such conditions as the State legislature may by law prescribe, the understanding being that the object is to give a lease for a term of years. The bill simply waives the right of the Government to complain or object to the variation of the terms of that provision in the enabling act.

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It being shown to the committee that the uses to which the lands are to be put are meritorious and worthy, and that they will be used for playgrounds, which are absolutely necessary for the nurture and development of the youths, and that this land is the only land available to the cities of Hoquiam and Aberdeen, in the county of Chehalis, State of Washington, and being further shown that the governor of the State and the commercial clubs and business men's organizations and a large number of the prominent citizens of the State, including the legislature, have favored this measure, your committee is of the opinion that the bill should be enacted into law.

It appears that the Legislature of the State of Washington passed an act attempting to grant these lands for park purposes and that the governor vetoed the act on the ground that it was a violation of section 2, of article 16, of the State constitution, and in the opinion of the attorney general of the State of Washington, no legislation to this effect, either providing for the sale or leasing of these lands, could be enacted without the permission of Congress, this bill has been introduced to obtain that permission.

The bill was submitted by the Senate Committee on Public Lands to the Department of the Interior for report, and the Secretary transmitted two reports, which are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, June 21, 1911.

Hon. KNUTE NELSON,
Chairman Committee on Public Lands, United States Senate.

SIR: Your committee has referred to this department, for information as to the law and the facts in relation thereto, Senate bill 2577, entitled "A bill authorizing the lease of school lands for public park purposes by the State of Washington for a longer period than five years."

I have the honor to advise you that report was made upon a similar bill June 1 (S. 2456). A copy of that report is inclosed herewith.

This bill merely includes additional lands, and since title to said lands passed to the State many years ago, the question of leasing for public park purposes for a period longer than five years would seem to be a matter primarily for legislative discretion. I see no objection to the passage of the bill.

Very respectfully, SAMUEL ADAMS, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, June 1, 1911.

Hon. KNUTE NELSON,
Chairman Committee on Public Lands, United States Senate.

SIR: In response to the request of your committee for report on S. 2456, entitled "A bill authorizing the State of Washington to lease the southeast quarter and the southwest quarter of section 36, township 18 north, of range 10 west, in Chehalis County, for public park purposes," I have the honor to state that said lands were surveyed in 1860, and the fee thereto passed to the State under the enabling act of February 22, 1889 (25 Stat., 681). Said act contains a prohibition against the leasing of any lands thereby granted for educational purposes to any one person or company for periods of more than five years. I see no objection, however, to the passage of this bill.

Very respectfully, WALTER L. FISHER, *Secretary.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 472.

TO ABOLISH THE COMMERCE COURT.

MARCH 29, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SIMS, from the Committe on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 19078.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 19078) to abolish the Commerce Court, and for other purposes, submits the following report:

[H. R. 19078, Sixty-second Congress, second session.]

A BILL To abolish the Commerce Court, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to create a Commerce Court, and to amend the act entitled 'An act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, as heretofore amended, and for other purposes," approved June eighteenth, nineteen hundred and ten, be amended by striking out sections one to six, inclusive, and paragraph twelve of section thirteen thereof, and inserting in lieu of said sections one to six, inclusive, and said paragraph twelve the following:

"SECTION 1. That on and after the passage of this act the jurisdiction vested in the Commerce Court in and by said act of June eighteenth, nineteen hundred and ten, shall be transferred to and vested in the district courts of the United States.

"Any suit brought to invoke such jurisdiction shall be brought in the circuit of the United States where one of the common carriers who is a party to said suit has its principal operating office, unless said office is in the District of Columbia, in which case said suit shall be brought in the circuit where such carrier has its principal office, and the provisions of an act entitled 'An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July second, eighteen hundred and ninety, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or any other acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three,' shall apply to any and all such suits.

"SEC. 2. That a final judgment or decree of a district court in any such suit may be reviewed by the Supreme Court of the United States if appeal to the Supreme Court be taken by an aggrieved party within sixty days after the entry of such final judgment or decree. Such appeal may be taken in like

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manner as appeals from a district court of the United States to the Supreme Court are now taken in other suits. The Supreme Court may affirm, reverse, or modify such final judgment or decree, as the case may require. Such appeal, however, shall in no case operate to supersede or stay the judgment or decree appealed from.

"An appeal may also be taken to the Supreme Court of the United States from an interlocutory order or decree of a district court granting or continuing an injunction restraining, staying, or suspending enforcement of an order of the Interstate Commerce Commission provided such appeal be taken within thirty days after the entry of such order or decree.

"Appeals to the Supreme Court under this section shall have priority in hearing and determination over all other causes except criminal causes in that court.

"SEC. 3. That any suit brought to enforce, or to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission, except orders for the payment of money, shall be brought in the name of the commission, or against the commission by name, as the case may be. The pendency of such suit shall not of itself stay or suspend the operation of the order of the commission, but the court may suspend, in whole or in part, the operation of the commission's order pending final hearing and determination of the suit if the court entertains grave doubt concerning the validity of the order and is of the opinion that irreparable injury to the party or parties against whom the order is made will ensue if such order of suspension is not granted. No preliminary injunction, restraining order, or stay order so suspending the operation of an order of the commission shall be made by the court otherwise than as above and on hearing after not less than five days' notice to the commission, and no order of the court so suspending the operation of an order of the commission shall continue in force for more than ninety days. In case the court shall so suspend the operation of an order of the commission, the court shall state in its order of suspension the particular or particulars wherein it entertains such doubt concerning the validity of the commission's order, and point to the evidence upon which it bases its opinion that irreparable injury to the party or parties against whom the order is made will ensue if such order of suspension is not granted, and state the nature of the injury.

"SEC. 4. That the Interstate Commerce Commission shall appoint a solicitor, who shall receive an annual salary of ten thousand dollars, payable out of the appropriation for the commission in the same manner that salaries fixed by the commission are paid.

"Said solicitor shall, under the direction of the commission, have full charge and control, on behalf of the commission, in the courts of the United States, including the Supreme Court, of any and all suits brought to enforce, or to enjoin, set aside, annul, or suspend any order or orders of the commission, except orders for the payment of money, and of any and all other suits instituted in court by or against the commission, and the commission may from time to time employ such attorneys as it may deem necessary to assist said solicitor in the conduct of such suits, and fix the compensation to be paid to such attorneys, which compensation shall be paid out of the appropriation for the commission: *Provided*, That any party interested in any order involved in any such suit may intervene in and become a party to said suit and be represented by his, its, or their own counsel therein under such rules, regulations, and practices as are now in effect in equity courts of the United States.

"Any and all costs taxed against the commission, and any expense incurred on behalf of the commission, in any suit instituted in court as aforesaid, shall be paid out of the appropriation for the commission.

"SEC. 5. That all cases pending in the Commerce Court at the date of passage of this act shall be transferred forthwith to said district courts. Each of said cases shall be transferred to the district court wherein it might have been filed at the time it was filed in the Commerce Court if this act had then been in effect, and if it might have been filed in any one of two or more district courts it shall be transferred to that one of said district courts which may be designated by the petitioner or petitioners in said case, or, upon failure of said petitioners to act in the premises within ten days after the passage of this act, to such one of said district courts as may be designated by the judges of the Commerce Court.

"SEC. 6. That if any carrier fails or neglects to obey any order of the commission other than for the payment of money while the same is in effect, the Interstate Commerce Commission may apply to any district court of the

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United States, in the circuit wherein such carrier has its principal operating office, unless such office is in the District of Columbia, in which case such application shall be to the district court in the circuit wherein the carrier has its principal office, for the enforcement of such order. If after hearing that court determines that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives from further disobedience of such order, or to enjoin upon it or them obedience to the same.

"SEC. 7. That any act or parts of any act in conflict with or inconsistent with the provisions of this act are hereby repealed.

"SEC. 8. That this act shall take effect and be in force from and after its passage, except that the judges of the Commerce Court shall have authority to make any and all orders and to take any other action necessary to transfer as aforesaid the cases then pending in the Commerce Court to said district courts."

This bill repeals the first six sections and paragraph 12 of section 13 of the act of June 18, 1910, establishing a Commerce Court. Those sections created that court, specified its duties and methods of procedure, and defined its jurisdiction. Stated somewhat more in detail, the provisions of the various sections were as follows:

Section 1 creates the Commerce Court, defines its jurisdiction, provides for the appointment of its judges and other officers, specifies the localities in which and the methods by which proceedings before this court shall be conducted.

Section 2 provides for an appeal from a final judgment or decree of the Commerce Court to the Supreme Court of the United States, and also an appeal from an interlocutory order of the Commerce Court granting a temporary injunction.

Section 3 directs that suits brought to enjoin the orders of the Interstate Commerce Commission shall be against the United States.

Treats of the granting of temporary injunctions and restraining orders, both by the court and by an individual member of the court.

Section 4 provides that all proceedings which have hitherto been brought in the name of or against the Interstate Commerce Commission shall be brought henceforth in the name of or against the United States, and that the United States may intervene in suits then pending by or against the Interstate Commerce Commission.

Section 5 provides that the Attorney General shall have charge of all suits brought to enforce the act to regulate commerce, and also of all suits brought to enjoin an order of the commission, but gives to the commission itself the right to intervene in proceedings attacking its orders, and also permits interested parties, whether individuals, associations, or communities, to be heard in those proceedings.

Section 6 provides for the transfer of cases pending in the various circuit courts to the Commerce Court.

Also requires common carriers to appoint agents resident in the city of Washington, upon whom service can be made.

Paragraph 12 of section 13 provides that the Attorney General may, in case the order of the Interstate Commerce Commission is not complied with, apply to the proper district court for a mandatory process to compel such obedience.

The general purpose of H. R. 19078 is to restore matters to the status which they occupied previous to the passage of the Commerce

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Court act in so far as that act provided for a Commerce Court. The sections in this bill in detail are as follows:

Section 1 transfers the jurisdiction of the Commerce Court to the district courts of the United States. It will be borne in mind that the district courts now exercise the functions discharged by the circuit courts when the Commerce Court was created.

States the venue in which suits attacking orders of the commission shall be laid and provides that the expediting acts shall apply to these suits.

Section 2 provides for an appeal from the district court to the Supreme Court within 60 days from the entry of a final judgment or decree, and that the Supreme Court may affirm, reverse, or modify such final judgment or decree.

Also provides for an appeal to the Supreme Court from any interlocutory order or decree of the district court granting or continuing a temporary injunction.

Provides that appeals to the Supreme Court shall have priority over all other causes except criminal causes.

Section 3 provides that any suit brought to enforce or set aside an order of the Interstate Commerce Commission, except orders for the payment of money, shall be brought in the name of the commission or against the commission.

The district court is allowed to grant a temporary injunction or restraining order only in case that court entertains grave doubt concerning the validity of the order and is of the opinion that irreparable injury to the party or parties against whom the order is made will ensue if such order of suspension is not granted.

The district court is required to state in its order temporarily enjoining the order of the commission the particular or particulars in which it entertains such doubt, and to point out the evidence upon which it bases its opinion that irreparable injury will ensue.

Section 4 creates the office of solicitor of the Interstate Commerce Commission, who shall have charge of the litigation of the commission both in the district courts and before the Supreme Court.

Further provides for the employment of attorneys by the commission to assist its solicitor in the conduct of its litigation.

There is a further provision that any interested party may intervene in any suit brought to set aside the commission's order.

Costs taxed against the commission and all expenses incurred by the commission in the course of this litigation are paid from the appropriation of the commission.

Section 5 transfers all cases pending in the Commerce Court at the date of the passage of the act to the several district courts. Each case is to be transferred to that district court in which it might have been brought at the time it was filed in the Commerce Court. In case it might have been brought in one or two or more districts, it shall be transferred to that one which may be designated by the petitioners. If the petitioners do not so designate within 10 days from the passage of this act, then the judges of the Commerce Court shall designate the district court.

Section 6 provides that if a carrier fails or neglects to obey an order of the commission, the commission may make application to a district court in the district where the carrier has its principal oper-

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ating office, and requires the court, if the order has been regularly made and duly served, to enforce the same by mandatory process.

Section 7 repeals acts in conflict with the provisions of this bill.

Section 8 provides that this act shall take effect from its passage, except that the judges of the Commerce Court shall have the necessary authority to make orders transferring to the appropriate district courts the cases pending in the Commerce Court at the time of the passage of the act.

If this bill is passed, the law will stand, in the main, as it did before the act creating the Commerce Court, with, however, two substantial exceptions, namely, temporary injunctions and the conduct of the litigation of the commission.

TEMPORARY INJUNCTIONS.

The act of 1906 gave to the circuit courts authority to grant an injunction restraining the operation of the order of the commission temporarily, pending litigation before the circuit court. This bill allows the granting of such a temporary injunction only in case where the court "entertains grave doubt concerning the validity of the order and is of the opinion that irreparable injury to the party or parties against whom the order is made will ensue if such order of suspension is not granted."

It seems evident that when a case has been deliberately heard and decided, the order of the commission should not be lightly, or as a matter of course, set aside. Up to the time that order is made the public has practically no relief from the unlawful rate or practice. If the order is enjoined, the public in most cases can obtain no complete relief against what happens pending the litigation in court.

In a case where one of two parties must suffer it seems but reasonable that the decision of the tribunal appointed to determine the question shall prevail, pending an appeal to the courts.

This bill attempts to reach that end by inhibiting courts from issuing these temporary restraining orders except in cases of "grave doubt."

Congress can without doubt enact that such temporary injunctions shall only continue for a certain time, provided that that time is a reasonable one within which to dispose of the matter upon its merits. It has always seemed to many people that the only effective restraint which can be put upon the power of the court in the granting of these temporary injunctions was to limit the life of the injunction itself. This bill does that by providing that no temporary order shall continue in effect for more than 90 days. This length of time is sufficient in which to try all questions presented to the district courts upon their merits, and the effect of it will be to expedite in the only sure way by which that can be done—the disposition of these questions in the district courts whenever a temporary injunction is granted.

This bill also provides that the court in issuing its temporary injunction shall state the reasons upon which it proceeds, and this is an important provision.

Contrary to the general equity rule the commission is allowed by the terms of this bill to appeal from an interlocutory order of the district court granting a temporary injunction. It is plain that such

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an interlocutory order might be granted as a simple exercise of discretion, or it might be granted for some substantial reason. The court might find some defect in the order of the commission or in the proceedings which led up to that order which would invalidate the order, but which could be readily remedied by the commission in some subsequent proceeding. If, now, the court is required to state the ground upon which it acts in the granting of the temporary injunction the commission can determine, first, whether it will stand upon its present order and, second, whether if it elects to do so the substantial question involved can be presented by an appeal from the interlocutory order of the district court.

CONDUCT OF LITIGATION.

It was somewhat doubtful under the law as it stood previous to June 18, 1910, to what extent the Interstate Commerce Commission could participate in the conduct of litigation to which it was a party. While the commission was habitually represented by its own attorneys in these proceedings, it is probable that a strict interpretation of the statute would have placed authority over this litigation in the Department of Justice. The act creating a Commerce Court did this in express terms. The present bill vests in the commission exclusive authority over all litigation to which it is a party either as a complainant or a defendant.

The commission is not a part of the executive branch of this Government, but is really the arm of Congress. The Supreme Court has said that the fixing of an interstate rate or practice is a legislative function. Congress might, by direct enactment, discharge that duty, or it may, as it has done, commit it to some tribunal. The commission reports directly to Congress and not to the President.

Questions with which the commission deals are not law questions; they are rate questions, to the proper solution of which a knowledge of law is but little helpful. To present these questions to the courts it is necessary first of all to have a competent understanding of the facts. The commission knows what it intended to accomplish in a particular instance and how it intended to accomplish that purpose. It can explain the connection of one decision with another and the effect of its decisions upon general commercial and transportation conditions. It is almost essential that the attorney who manages these matters in court shall be in close touch with the commission and in full accord with its purposes and efforts.

This has always been recognized in the past, and until the present Attorney General took office the commission has always, at the request of the Department of Justice, managed, in the main, its own legal matters, either by attorneys regularly employed by it or by special counsel engaged for that purpose. This bill proposes to give the commission authority to do what it has always done in fact up to the last three or four years and what it must do in some form if its litigation is to be properly conducted.

The present system, which permits the Attorney General to virtually overrule the orders of this commission when they are objected to by the carrier, is an apparent absurdity.

The first section of this bill makes the various expediting acts applicable to suits brought in the district courts to enjoin the orders

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of the commission. The expediting act provides that the Attorney General shall file with the clerk of the district court in which the proceeding is pending a certificate requiring that it be expedited. In the past the Attorney General has been a party to these proceedings. If this bill is adopted he will no longer be such party and will have no interest or knowledge in the premises. It is provided, therefore, that the expediting acts shall apply as a matter of course and without the certificate of the Attorney General.

SAVING IN EXPENSE.

If a Commerce Court is necessary, a mere saving of expense would be no sufficient reason for abolishing it, but if it is unnecessary the Government ought not to throw away money in its maintenance. It is therefore a question of some importance to inquire whether the present system or the system proposed by this bill would be the more economical. It is evident that the maintenance of the Commerce Court involves a large additional outlay in the following particulars:

1. There is, first, the appropriation covering the items of rent, the salaries of the officers of the court other than its judges, and all the incidental expenses, aside from the salaries of the judges themselves. What this amounts to can be determined by looking into the estimates for the coming year.

2. There is, in the second place, the item of the salaries of the judges themselves.

Under the present system five judges are employed almost continuously in Washington. The act provides that the judges of the Commerce Court may be assigned to work upon their respective circuits, and to a very limited extent this has been done, but only to a limited extent.

Under the method proposed by this bill cases now coming before the Commerce Court will be heard by three circuit or district judges in the circuit where the cause is pending. It is a perfectly conservative estimate to say that one-half of the time of the five judges who now constitute the Commerce Court will be saved, and that therefore there will be a saving of at least one-half the salaries paid these judges.

It must be remembered that every circuit for which one of these judges was appointed now needs the continual service of an additional circuit judge for the proper disposition of its business.

3. There is, in the third place, a very material saving in the expense of conducting the litigation of the commission under the plan proposed by this bill as compared with the present plan.

To-day the work of handling these cases is virtually duplicated. The commission has the right to intervene, and it has in all cases intervened. The commission has not felt that its cases would be properly presented to the court unless it did appear by its own attorneys. It is believed that the Commerce Court judges themselves would bear witness that the substantial burden of this litigation has been sustained by the commission.

The commission employs at the present time a solicitor at a salary of $5,000 per year and an attorney at a salary of $3,900 per year, and these two individuals have represented it in all cases before the Commerce Court and the Supreme Court, with the exception of one

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or two instances, where special counsel were employed, for the reason that the attorney had formerly been an employee of the commission and was especially familiar with that particular case.

The Department of Justice devotes to this work an Assistant Attorney General and two subordinates, and maintains an expensive suite of offices for the accommodation of these lawyers.

EXPEDITION.

Whether greater expedition in disposing of cases would be obtained under the Commerce Court system or under the system proposed by this bill is fairly doubtful. It is evident that when the case once reaches the Supreme Court of the United States, where, as a practical matter, all these cases finally go, it makes no difference whether it comes from the Commerce Court or from the district court. The real question, therefore, is which court below will most expedite the business.

The Commerce Court has nothing to do but to try these cases and ought to be able to give them great expedition. In point of fact, this has not always been done. One important case was submitted nearly a year before an opinion was handed down by the Commerce Court, and in several instances months between the hearing and the decision have intervened.

It must be evident that if Interstate Commerce Commission cases took their ordinary course before the district courts, as they did prior to the adoption of the expediting acts, great delay would necessarily occur in those courts, but under this bill the expediting act applies which requires that the case shall be heard by three judges and shall be given precedence over other matters.

This practice is almost exactly like that which prevailed previous to the creation of the Commerce Court. Experience under that method of procedure shows that circuit courts did ordinarily obey the mandate of the statute, lay aside other matters, and give actual precedence to these cases. Under that practice fully as prompt a decision was obtained from the circuit court as has been obtained from the Commerce Court. In cases where there was no trial upon the facts decisions were promptly reached from which appeals could be taken to the Supreme Court. Where the case was heard upon the facts by a master there was necessarily the same delay in the circuit court that there has been in the Commerce Court.

If the expediting act is applied in good faith by the district courts it is believed that matters would be as expeditiously handled under the plan proposed by this bill as under the Commerce Court act.

The Commerce Court, though composed of circuit judges, has no jurisdiction of any kind or character except suits instituted for the enforcing, enjoining, setting aside, annulling, or suspending orders of the Interstate Commerce Commission. Very few suits have been brought, or ever will be brought, in that court to enforce orders of the commission. On the contrary nearly all suits brought in that court are, and will continue to be, suits against the enforcement of the commission's orders. All these suits are in fact attacks upon the commission. In all these cases the commission stands as the real defendant. These suits may be many and the charges multitudinous, but all the while there will be but one material defendant. The

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Commerce Court, year in and year out, must for all time, if it be continued so long, hear a never ending volumn of criticism and denunciation of the commission regarding the discharge of its functions and duties. Practically every invocation of the jurisdiction of this court will be adverse to the commission. Is it possible for any five judges to remain unbiased under such conditions? To expect otherwise is too much for weak human nature. In this connection it is interesting to note, as shown by the last annual report of the Interstate Commerce Commission, that out of 27 cases passed on by the Commerce Court since its creation, February 15, 1911, to December 4, the date of said report, that preliminary restraining orders or final decrees have been issued in favor of the railroads in all but 7 cases, and that only 3 of the 7 were of any magnitude; that in but 3 cases of any consequence where the commission and the shippers have been opposed to the railroads have the orders of the commission been sustained even temporarily by the refusal to grant a temporary restraining order.

Is it possible to regard such a record of the Commerce Court as otherwise than destructive of the usefulness of the Interstate Commerce Commission, the instrumentality of Congress by and through which the rates and practices of the common carriers of the country are to be controlled and regulated?

The Supreme Court has declared that the making of a rate for the future is a legislative and not a judicial function. It has further declared that this function may be exercised by Congress through a commission acting under prescribed rules. The rate thus fixed by a commission is as much a legislative act as if made by Congress itself.

The discretionary power involved in reaching a conclusion that a particular rate is or is not reasonable for the future is, in the very nature of things, a legislative discretion which can not and ought not to be reviewed by the courts; nor can its legislative character be changed even though there is no dispute about the facts in many cases where such discretion and judgment must be exercised. The only questions that can arise for the determination of a court in such cases are two:

A. Did the commission have the power under the law to make the order?

B. Is the order confiscatory?

The first of these questions involves the construction by the court of the acts of Congress by which the powers of the commission are delegated to it, which is a pure question of law in no wise dependent upon the facts of any given case. The second question is one of fact, as to whether the rate fixed by the commission is so low that the carrier can not, in connection with all its other sources of income, earn enough money to enable it to maintain its property and pay operating expenses.

Do either of these questions demand or require special expert knowledge on the part of judges of any court? Do not all courts, both State and Federal, have to construe the statutes of legislative bodies? Does it require unusual legal attainments for judges of one particular Federal court to enable it to properly construe the acts of Congress conferring powers on the Interstate Commerce Commission? Are not the acts of Congress conferring such powers as simple and as easily understood as any other acts?

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Is it necessary that the judges of an inferior court, from all of whose decisions a direct appeal lies to the Supreme Court, should be experts, when the judges of the court of last resort are not experts? If experts are needed as judges of the Commerce Court, why should there not be a court of experts to pass on all questions arising out of the application of the fourteenth amendment regarding the acts of the legislatures of the several States and as to the acts of the State railroad commissions? The questions of law and fact in cases arising under the fourteenth amendment to the Constitution are exactly of a kind and character as are those arising under the fifth amendment and requires no different qualifications for judges passing on such questions than is required of the judges of the Commerce Court.

As shown by the latest report of the Interstate Commerce Commission, the State of Illinois has 11,875 miles of railroads; Pennsylvania, 11,083 miles; Texas, 14,243 miles; Iowa, 9,733 miles; Kansas, 9,006 miles; Michigan, 8,985 miles; Minnesota, 8,668 miles; Missouri, 8,077 miles; Ohio, 9,128 miles. All these States have railroad commissions vested with legislative powers in varying degrees regarding rates and practices of railroads, but not one of these great States, with thousands upon thousands of miles of railroads within their respective borders, has any special State court to pass on the validity of the acts of the legislatures of these States or of the orders of the railroad commissions of any of them. Then why should the United States be burdened with the expense of maintaining a special court to pass on questions of law and fact respecting the powers and orders of the Interstate Commerce Commission?

To ask the question is to answer it. There is nothing unusual or out of ordinary court procedure in passing on any facts that may be presented or that is necessary to be considered in determining whether or not a certain rate of fares and charges is or will be confiscatory. The testimony of expert witnesses in such cases must be weighed and considered, but it does not require an expert court of first instance to consider expert testimony any more than it does for a court of last resort.

It appears from several cases determined by the Commerce Court that where there is no conflict of testimony before the commission or where the facts are undisputed that the court holds it has a right to substitute its conclusions of fact from such undisputed testimony for and instead of the conclusions of fact found by the commission and to determine for itself whether or not the rate of fares and charges fixed by the commission for the future is reasonable.

As a great majority of cases wherein the orders of the commission are assailed are based upon undisputed facts, such a holding of the Commerce Court will permit it to review upon the facts the orders of the commission in the same manner as in a court of appellate jurisdiction where causes coming to it by appeal are tried de novo. As the Interstate Commerce Commission is the highest authority on the effect of such holdings by the Commerce Court on the orders of the commission, the following statement of the commission in its last annual report, in commenting on the decision of the Commerce Court in the Pacific Coast Switching cases, is entitled to great weight:

But while it happened to be otherwise in this particular case, it is true of the great majority of the cases heard before this commission that the facts are not in dispute. It is the conclusion to be drawn from those facts which

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is doubtful. Do the facts, not usually open to question, justify the further conclusion of fact that the rate or the practice under consideration is unjust and unreasonable? It is this inference of fact which the commission must of necessity draw whenever it reaches a conclusion upon any question involving the reasonableness of a rate or the undueness of a discrimination. If the Commerce Court is correct in stating that where the facts are admitted it is for that court to determine whether the rate is unreasonable or the discrimination undue, then ninety-nine one-hundredths of the orders of this commission can be reviewed upon the question of fact by the courts.

WHY THE COMMISSION SHOULD DEFEND IN COURT SUITS BROUGHT TO ANNUL ITS ORDERS.

It is alleged by the Attorney General that it is unnecessary for the Interstate Commerce Commission to be represented in suits in the courts wherein its orders are attacked, and further that it ought not to be represented in such proceedings by its own counsel.

This contention is based upon the fact that the commission as a tribunal has decided something which is in issue in the court, and it is argued that you might as well have a district judge directing his counsel to appear before the Supreme Court to argue in support of his opinion or decision.

There is no such analogy between a United States district court and its judicial functions and duties and the Interstate Commerce Commission and its administrative functions and duties as to make pertinent the comparison referred to. The district court is strictly a judicial tribunal, trying issues between parties at interest in which they alone are affected. The review of its decisions by the supreme or appellate court is upon appeal, and the only parties interested or affected by the decision are heard upon the record as they have made it. The Interstate Commerce Commission, on the other hand, is not a judicial tribunal, is not a court and renders no judgments; therefore, there can be no appeal on a judgment to a court. It is authorized and required by law generally to enforce the provisions of the act to regulate commerce, and specifically to enter orders against carriers to cease and desist from the exaction and enforcement of rates, regulations, and practices, and to establish in lieu thereof other rates, regulations, and practices, when, in its opinion, after full hearing upon complaint filed or a proceeding of inquiry instituted on its own initiative, it shall conclude that any rate, regulation, or practice complained of, or involved in an inquiry instituted by itself, is unjust and unreasonable, or unduly discriminatory, and therefore unlawful under the various provisions of the act.

Every rate, regulation, or practice of a common carrier, both directly and indirectly, affects the interests of many persons; therefore every such question is a public question, whether the complaint be instituted by an individual or association or by the commission itself. The administration of this law, therefore, should be uniform in the application of the principles to be applied in the consideration of the varying facts, circumstances, and conditions respecting the questions of reasonableness and of discrimination.

By reason of the ever-changing facts, circumstances, and conditions upon which a question of reasonableness or of discrimination must be determined in each case, it has been deemed impracticable by judicial procedure in the courts to secure and enforce proper regula-

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tions, partly because of the necessity for the establishment of rules, regulations, and practices for the future, which is in the nature of a legislative function. In the very nature of the case the question of reasonableness or of discrimination must be determined upon many considerations; one pertinent fact may be of much less consequence in one case than in another, because of countervailing facts, circumstances, and conditions present in one case and not in another. So no specific formula or rule uniformly applicable to all cases can be prescribed for the determination of these questions, no more than a verdict of a jury can be rendered on the basis of a formula or specific rule.

This being so and the commission being appointed with a view to the special qualifications of its members as experts, dealing continually and exclusively with questions of this kind, constantly accumulating, in which the facts, circumstances, and conditions as developed in its investigations from day to day are all available in bringing its expert knowledge to the determination of questions in each case, how can it be possible that any other department, or representative of any other department, can know the reasons and the theory of the commission's action in making a specific order, as well as the commission's own representative, who is continually engaged with it in connection with controversies growing out of its orders? The commission may be in error; and if so, it is for the courts to refuse to enforce its orders; but it is impossible that any other than its own representative could so well present to the court its reasons and the facts upon which it has felt justified under the law in making the particular order at issue.

It has not, as a court, tried a case between John Doe and Richard Roe, in which no one else is interested, but it has, in the performance of an administrative duty, as an expert body upon full hearing and in obedience to the law, entered an order, which, unless the carriers can secure an injunction against it, will become effective. It is not, therefore, merely the interest of John Doe or Richard Roe that is involved in the enforcement of the order of the commission, but it is a public question affecting many people and many interests, those of others as well as the carriers. For this reason it seems to the committee that the comparison between the commission, in endeavoring to show in court the reasons for the order it has made on the one hand, and the appearance of a representative of an inferior before a court of appeals merely to sustain the decision of the judge in a controversy between two individuals, both of whom are represented in the court of appeal as well as before the lower court on the other hand, is wholly out of place. The question is an eminently practical one, and it seems too obvious for argument that the representatives of the commission, whether it has made a proper order or not, can better know and present to the court the reasons for its action than anyone else.

If the commission is to be excluded from justifying its orders before the courts, and is to be under the direction and control of the head of another department, it may turn out that the latter may be wholly unfamiliar with the reasons which actuated the commission, or being familiar with these reasons for action, may disagree with it as to the conclusions reached, and therefore be unfavorable to the enforcement of its order.

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In either event, the court hearing the controversy must be deprived of the theory and reasons which govern the administrative body charged with the enforcement of the law and the application of its provisions to these controversies, involving, not merely private, but public interests. If another department is to determine whether the order of the commission should be upheld or not, and the commission is not to be heard, then it would seem consistent that the proposed orders of the commission should be submitted for the approval of the other department before they are entered. This would hardly seem to be compatible with the plainly manifest theory of this legislation, which is that the commission should be as absolutely independent as possible in its action, to the end that it may be perfectly impartial, as indicated in the manner of its establishment.

It is required that not more than a majority of it members shall be of the same political party, that in the ordinary course the term of not more than one member of the commission should expire at the same time, and that it shall report directly to Congress. All of these provisions were intended to make it free of possible political or other influence from any source. Expert knowledge and experience was sought to be secured by the somewhat long term of office of seven years without change in the personnel of more than one commissioner at a time.

The orders which the commission enters are the culmination of its investigations and the application of its expert knowledge to the facts, circumstances, and conditions disclosed in each case. It is its orders which give effect to the provisions of the law. When the validity of these orders is on trial, conceding that they will sometimes be found to be erroneous, how can it be possible that any other than a direct representative of the commission can present as well as he the commission's reasons in justification of its action? What possible impropriety can there be in the appearance of the commission's representative to aid the court in an accurate and correct understanding of the commission's action and its reasons therefor?

The representatives of the complainants and of the defendant carriers will conduct the contest in court mainly from the standpoint of their respective interests and not from the impartial standpoint of the public interest. If the commission is to be kept independent, to the end that it may act with the utmost freedom and impartiality, without restraint, and is to be responsible for the orders it makes, in all fairness to it and to the public it should be permitted to present through its own representative the justifying reasons for its action.

Your committee recommends that the bill be amended as follows:

On page 2, at the end of line 19, add: "Without the filing of a certificate by the Attorney General," and as amended your committee recommend the passage of the bill.

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VIEWS OF THE MINORITY.

The undersigned members of the Committee on Interstate and Foreign Commerce dissent from the report of the majority of the committee accompanying H. R. 19078, and oppose its passage for the following reasons:

President Taft, in his message to Congress dated January 7, 1910, stated:

> "It has from the first been well understood," says the Interstate Commerce Commission, "that the success of the present act as a regulating measure depended largely upon the facility with which temporary injunctions could be obtained. If a railroad company, by mere allegation in its bill of complaint, supported by ex parte affidavits, can overturn the result of days of patient investigation, no very satisfactory result can be expected. The railroad loses nothing by these proceedings, since if they fail it can only be required to establish the rate and to pay to shippers the difference between the higher rate collected and the rate which is finally held to be reasonable. In point of fact it usually profits, because it can seldom be required to return more than a fraction of the excess charges collected."

In its report for the year 1909 the commission shows that of the 17 cases referred to in its 1908 report, only one had been decided in the Supreme Court of the United States, although 5 other cases had been argued and submitted to that tribunal in October, 1909.

Of course, every carrier affected by an order of the commission has a constitutional right to appeal to a Federal court to protect it from the enforcement of an order which it may show to be prima facie confiscatory or unjustly discriminatory in its effect; and as this application may be made to a court in any district of the United States, not only does delay result in the enforcement of the order, but great uncertainty is caused by contrariety of decision. The questions presented by these applications are too often technical in their character and require a knowledge of the business and the mastery of a great volume of conflicting evidence which is tedious to examine and troublesome to comprehend. It would not be proper to attempt to deprive any corporation of the right to the review by a court of any order or decree which, if undisturbed, would rob it of a reasonable return upon its investment or would subject it to burdens which would unjustly discriminate against it and in favor of other carriers similarly situated. What is, however, of supreme importance is that the decision of such questions shall be as speedy as the nature of the circumstances will admit, and that a uniformity of decision be secured so as to bring about an effective, systematic, and scientific enforcement of the commerce law, rather than conflicting decisions and uncertainty of final result.

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For this purpose I recommend the establishment of a court of the United States, composed of five judges, designated for such purpose from among the circuit judges of the United States, to be known as the "United States Court of Commerce," which court shall be clothed with exclusive original jurisdiction over the following classes of cases:

(1) All cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty, or by infliction of criminal punishment, of any order of the Interstate Commerce Commission other than for the payment of money.

(2) All cases brought to enjoin, set aside, annul, or suspend any order or requirement of the Interstate Commerce Commission.

(3) All such cases as under section 3 of the act of February 19, 1903, known as the "Elkins Act," are authorized to be maintained in a circuit court of the United States.

(4) All such mandamus proceedings as under the provisions of section 20 or section 23 of the interstate-commerce law are authorized to be maintained in a circuit court of the United States.

Reasons precisely analogous to those which induced the Congress to create the Court of Customs Appeals by the provisions in the tariff act of August 5, 1909, may be urged in support of the creation of the Commerce Court.

In order to provide a sufficient number of judges to enable this court to be constituted, it will be necessary to authorize the appointment of five additional circuit judges, who, for the purposes of appointment, might be distributed to those circuits where there is at the present time the largest volume of business, such as the second, third, fourth, seventh, and eighth circuits. The act should empower the Chief Justice at any time when the business of the Court of Commerce does not require the services of all the judges to reassign the judges designated to that court to the circuits to which they respectively belong; and it should also provide for payment to such judges while sitting by assignment in the Court of Commerce of such additional amount as is necessary to bring their annual compensation up to $10,000.

The regular sessions of such court should be held at the Capital, but it should be empowered to hold sessions in different parts of the United States if found desirable; and its orders and judgments should be made final, subject only to review by the Supreme Court of the United States, with the provision that the operation of the decree appealed from shall not be stayed unless the Supreme Court shall so order. The Commerce Court should be empowered in its discretion to restrain or suspend the operation of an order of the Interstate Commerce Commission under review pending the final hearing and determination of the proceeding, but no such restraint order should be made except upon notice and after hearing, unless in cases where irreparable damage would otherwise ensue to the petitioner. A judge of that court might be empowered to allow a stay of the commission's order for a period of not more than 60 days, but pending application to the court for its order or injunction, then only where his order shall contain a specific finding based upon evidence submitted to the judge making the order and identified by reference thereto, that such irreparable damage would result to the petitioner, specifying the nature of the damage.

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Under the existing law, the Interstate Commerce Commission itself initiates and defends litigation in the courts for the enforcement, or in the defense, of its orders and decrees, and for this purpose it employs attorneys who, while subject to the control of the Attorney General, act upon the initiative and under the instructions of the commission. This blending of administrative, legislative, and judicial functions tends, in my opinion, to impair the efficiency of the commission by clothing it with partisan characteristics and robbing it of the impartial judicial attitude it should occupy in passing upon questions submitted to it. In my opinion all litigation affecting the Government should be under the direct control of the Department of Justice; and I therefore recommend that all proceedings affecting orders and decrees of the Interstate Commerce Commission be brought by or against the United States *eo nomine*, and be placed in charge of an Assistant Attorney General acting under the direction of the Attorney General.

Pursuant to such recommendation, the Commerce Court was created in the bill amending the interstate commerce law, approved June 18, 1910, and commenced its business on the 8th day of February, 1911.

During the year of its existence up to February, 1912, session, it had a docket of 60 cases. The court was established to assist the general and shipping public in controversies with railroads in order to insure: First, more speedy determination and settlement; second, a more uniform and satisfactory adjustment; third, a more economical method of procedure and settlement.

The annual report of the Attorney General of the United States for the year of 1911 shows that between six and eight months have generally been required to dispose of cases in the Commerce Court so they may reach the Supreme Court, and in several cases not more than a year has been required to finally dispose of the litigation in the Supreme Court.

The record of cases involving orders of the Interstate Commerce Commission previous to the establishment of the Commerce Court shows that generally a year or more was necessary in the circuit court before an appeal could be perfected to the Supreme Court, and in some cases several years have been required.

Exhibit A, attached, shows the length of time during which orders of the commission were held up pending litigation under the old plan as compared with the length of time under the present plan.

Under the circuit-court plan the orders were suspended anywhere from nine months up to two and a half years, while under the Commerce-Court plan they have been suspended only from three to eight months. Two of the eight months' cases involved the five summer months and two have been purposely held by the Government and the Interstate Commerce Commission pending the decision by the Supreme Court of the prior cases already argued.

Exhibit B, attached, shows the total length of litigation under the old circuit-court plan. How much of this time will actually be saved under the new plan can not be determined, but there is an indication in the showing made by Exhibit A.

It is argued that expedition acts, requiring that preference in trial be given to this class of cases, would equally serve to hasten a determination of such cases in the district courts. In considering this

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proposition it is very important to realize the equally important classes of litigation for which Congress has already provided expedition acts. The Attorney General, in his statement before the committee, added a list which is here noted, as follows:

The cases which now have preference in trial in the district court are as follows:

BY STATUTORY REQUIREMENT.

The antitrust act. (32 Stat. L., 823.)
The Elkins Act. (32 Stat L., 849.)
The navigation laws. (R. S., sec. 4300; 30 Stat. L., 1153; 31 Stat. L., 682; 25 Stat. L., 151; 25 Stat. L., 210; 27 Stat. L., 431; 28 Stat. L., 361.)
Contempts before referees in bankruptcy. (30 Stat. L., 556.)
Habeas corpus. (R. S., secs. 751 to 766, inc.)
Interference with submarine cables. (25 Stat. L., 42.)
Interlocutory injunction suspending State statutes (three judges to be called together at once, Judicial Code, sec. 266).

UNDER PRACTICE OR COURT RULES.

Criminal cases.
Ordinary interlocutory injunctions.
Cases arising for a second trial.
Cases brought by receivers.
Cases brought by the United States.
Jury cases (generally given precedence over equity cases).

It will thus be recognized that in the business of a crowded calendar that much delay is bound to ensue in this class of litigation which will be beyond the powers of the courts as now constituted to remedy.

It must also be realized in seeking to ascertain whether the pending bill will hasten or retard litigation that there are 86 district courts in the United States which would have jurisdiction to review orders of the Interstate Commerce Commission, in case this bill be enacted into law. A large majority of the judges in them have had no particular training along the line of such litigation and so would necessarily require greater time for the consideration of the intricate and voluminous records and the arguments upon them than would judges familiar from a daily experience with this very class of cases.

In the districts where the majority of the cases were formerly brought and probably would be if this measure be enacted, the dockets are crowded with a mass of important and varied litigation which constantly demands and must receive much attention by the court and judges. This will serve to distract and delay the best and speedy determination of the cases involving the interstate-commerce law. Not only would such litigation be impeded, but the preference of this and other important classes by Congress will frequently result in delaying not only other preferential classes but the general business of the courts; so that in some cases of hardship it may result in a denial of justice.

Second. The creation of the Commerce Court has improved conditions relative to uniformity of decisions under the interstate-commerce law.

Before the law which created the Commerce Court was passed, June 18, 1910, the circuit judges of the United States and the district judges sitting in the circuit courts had the power to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission. They had also the power to issue writs of mandamus to compel carriers under certain cir-

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cumstances to move freight and otherwise to comply with the law. In the case where a railroad company was dissatisfied with the action of the commission, the usual practice was to apply to a circuit judge within the circuit in which the carrier made its headquarters or through which the transportation may have been conducted, for an injunction against the commission. Inasmuch as there were some 30 circuit judges in the United States, and approximately 96 district judges who were authorized under certain circumstances to hold the circuit court, the power to set aside the acts of the Interstate Commerce Commission was diffused in a way that could not but be bewildering. By general consent, the results were wholly unsatisfactory

At times they were so contradictory as to involve a conflict of jurisdiction. That is to say, a judge in one circuit might annul an order of the Interstate Commerce Commission upon a certain theory of the law, while another judge in a different circuit might rule exactly contrary. Thus it might happen that a line of railway running between States would find itself empowered to do things in respect to interstate commerce in one section that it was enjoined from doing in another. Embarrassments naturally followed, and the Interstate Commerce Commission was often obliged to select for itself which view of the law it should accept as a guide for its action until the Supreme Court could pass upon the conflicting rulings of the circuit courts. Naturally, this meant not only great delay, but positive damage alike to the interests of shippers and railroads.

In the appendix to the last report of the Attorney General there was set forth a list of cases commenced in districts far from the place where the litigation arose, showing the probability under this measure that the railroads would seek the forum where they would be most likely to be successful, and thus cause additional delay, expense, and uncertainty to the shipping and general public. This is one of the serious evils which has certainly been corrected by the establishment of the Commerce Court.

Third. There has also been a saving of expense to the shipping and the general public through the Commerce Court, not only by a speedy and uniform determination of cases, which is always a very great saving to litigants, but there has been an actual saving of money necessary to conduct the litigation. The judges of the Commerce Court may sit separately in any part or in different parts of the United States to take testimony which may be voluminous and important; and to the shippers it may be of great moment that the judge who actually takes the testimony should pass upon it. This could not be done under the old law and could not be done if this bill passes.

In addition, in the first paragraph, section 2, of the act establishing the Commerce Court, is the provision "and the Commerce Court may direct the original record to be transmitted on appeal instead of a transcript thereof." The pending bill repeals this clause, and it would be impracticable for any district court to so part with its records. Yet this provision might save much expense to litigants and might be the means of enabling the less powerful and wealthy shippers to have determined by the Supreme Court questions of great importance to them and to the public.

The Commerce Court has been criticized severely because it has seemed in its decisions to unduly favor the railroads as against the shippers; and again that it has not had sufficient business to occupy the time of judges, receiving large salaries from the public Treasury. Appended is a comparative statement, Exhibit C, showing the course and result of the litigation over the orders of the Interstate Com-

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merce Commission in the Circuit Court, before the creation of the Commerce Court and in the Supreme Court, and the record of the Commerce Court relative to granting of temporary injunctions, Exhibit D. In his testimony before the committee the Attorney General appended the following summary upon the data submitted:

SUMMARY OF GENERAL CONCLUSIONS BASED UPON THE DATA SUBMITTED.

1. The Commerce Court has upheld the commission in a larger proportion of cases than either the circuit or Supreme Court.
2. Under the old plan the circuit court was reversed by the Supreme Court in 7 out of 11 cases arising since the Hepburn Act.
3. The Commerce Court has not granted temporary injunctions with any more freedom than the circuit court did.
4. The 17 temporary injunctions which were granted were none of them in cases where the question was a question of fact.
5. The new plan has been very much more expeditious than the old plan.

It is objected that there is not sufficient business to occupy five high-salaried judges. The act creating the court provides that when all the judges are not needed there the Chief Justice of the Supreme Court can assign them for service anywhere in the country. As a matter of fact, four of the judges of the Commerce Court have sat six different times in various parts of the country.

Judge Archbald held an extended term of the circuit court in New York City in July and August of last year, on account of the congested condition of the calendar in that district.

Judge Hunt has just concluded a session of a month or more in Montana, where the vacancy occasioned by the resignation of the district judge last October has not been filled and there was no judge in that circuit who could go to that State.

Judge Carland is now sitting in the circuit court of appeals in St. Louis, in place of Judge Smith, who is said to be somewhat seriously ill.

Judge Mack is sitting in the circuit court of appeals in Chicago, where the vacancy occasioned by the resignation of Judge Grosscup has not been filled.

In addition, Judge Knapp was occupied to a considerable extent as a mediator in connection with the Commissioner of Labor in railway labor disputes under the Erdman law. This law was amended by substituting for the chairman of the Interstate Commerce Commission a second mediator, to be appointed by the President from the members of the Interstate Commerce Commission or the Commerce Court, and the President soon afterwards appointed Judge Knapp to act in that capacity for two years.

This very important duty and the desirability of having one judge of the Commerce Court constantly in Washington has required his attendance here.

There has been criticism of the Commerce Court that it has attempted to review the orders of the commission because of errors of fact as well as errors of law.

The existing law granted to the Commerce Court exactly the same powers over the orders of the commission which were formerly possessed by the circuit courts and would be had by the district courts

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under the pending bill. It is inevitable that in the litigation in a new court questions should arise concerning its jurisdiction. But these either have been or will soon be determined by the Supreme Court, and this cause for complaint will mainly be removed.

The Attorney General stated to the committee that every temporary injunction so far granted by the Commerce Court has involved real questions of law, either a construction of the interstate commerce act or the powers of the commission under it.

If it be desired to remedy any difficulty not met by the rulings of the Supreme Court declaring the law, it might well be met by an amendment to the law suggested by the Attorney General in the hearings, making clear the extent to which orders of the Interstate Commerce Commission shall be final and conclusive.

This would be—

(1) To require the commission to state in its report, as a basis for its order, the findings of fact and the reasons on which the order is based.

(2) To provide that all findings of fact and conclusions of policy appearing in the said report shall be final and conclusive.

(3) To limit the court review exclusively to questions of law arising upon the said report.

Such an amendment under the lines laid down by the Supreme Court would meet most of the criticism directed against the action of the Commerce Court.

The pending bill seeks a return to the court proceedings in which the Interstate Commerce Commission itself should be the active party in the litigation. President Taft well described the situation in his message heretofore quoted. The Attorney General in the hearing stated as follows:

Prior to the act of 1910 the United States as such was not a party to any of these suits. Suits were brought against the Interstate Commerce Commission by this company by their orders and who challenged their effectiveness in the courts. The act of 1910, as drafted and introduced, proposed to change that. It was an anomaly that an executive body, having made its orders, should then become a litigant in the courts to defend its orders. It was recognized as an anomaly. It was one of the subjects of complaint against the commission that it was put in the position of being a judge and then an advocate The railroad bill of 1910 proposed that all proceedings with respect to their orders should be brought against the United States, or by the United States if seeking to enforce them, and that the United States should be represented by the Department of Justice precisely as in any other proceeding for or against the United States.

The present chairman of the commission, Judge Prouty, in a very able and comprehensive address before the American Bar Association at Portland, Me., August 26, 1907, said in part:

I have said that the act to regulate commerce at once instructs the commission to enforce its provisions and constitutes that body a tribunal to pass upon complaints brought against railways. It has been in the past one of the most serious reproaches against that act that the commission was made by its terms at once a prosecuting officer and judge. Strictly speaking, it is neither a prosecutor nor a judge, but an administrative body bidden to do justice between the railways and the people. Its findings have been in the past merely prima facie and its orders could only be enforced in court where the railways might obtain a judicial trial de novo. It must be admitted, however, that the objection to combining in the same person the duties of a prosecutor and a

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trier is a wise one, which should seldom be contravened. While the orders of the commission were unimportant, and subject to review in the courts, the union of these two functions may have been well enough. Plainly a different question would be presented were the jurisdiction of the commission extensive and its decision final. That practical situation has now arisen. The jurisdiction of the commission has been enormously increased, and its decision with respect to most of the matters which it hears is, in my opinion, practically final. I feel, therefore, that the time has come when the duties of this body should be separated. If it is to continue to hear and determine cases, it should be relieved of its other work. * * *

The conclusion of the whole matter is this: If the Interstate Commerce Commission is vested with a jurisdiction so tremendous in extent, and of such finality every effort should be made to provide a body adequate to the trust. That commission under the present law is charged with two sets of duties requiring diverse qualifications for their discharge. It stands, first, as representative of the Government to see that these highways are in fact public. It is commanded to enforce the provisions of the act to regulate commerce. It must see that the rates are reasonable and just; that the practices and regulations of railways are not oppressive; that the penalties provided by the act are enforced. In the near future its powers must be extended to the operation of the railway as well. These duties are largely executive. They can best be discharged by a single head, responsible to the executive, and answerable to the spur of popular criticism.

Second, this commission is in essence a judicial tribunal which hears and decides complaints. The qualifications of such a body are the exact opposite of the other. Its membership should be numerous, so that its decisions may be the resultant of independent minds. It should be entirely withdrawn from all political and personal influences, and it should have time for the deliberate consideration of the matters coming before it.

I very much doubt whether the same body can properly discharge both these functions. In the end it will either become remiss in its executive duties or will, in the zeal of those, become unfit for the dispassionate performance of its judicial functions. Whatever may have been true in the past, the time has come when the commission should be relieved of all its duties except the hearing and deciding of complaints.

This sound advice was taken in the provision that the United States should be substituted as the party to the litigation instead of the Interstate Commerce Commission and that the Department of Justice should supervise and present the interests of the people of the whole country exactly as in all other classes of public litigation.

This would seem to be conclusive that the interest of the general public would not be subserved by a reversion to former anomalous conditions, bound to grow more and more unsatisfactory with the increase of important business before the commission.

There are serious defects in the pending bill to which we strongly object.

It provides that "no order of the court suspending operation of an order of the commission shall continue in force for more than 90 days" and an appeal to the Supreme Court "shall not operate to supersede or stay the judgment or decree appealed from." In case an order of the commission be assailed as confiscatory, under this rule, confiscation might continue for an indefinite time before relief could be had. It is submitted that such a provision violates the fundamental rights of citizens. The existing law provides that the Supreme Court or judges thereof may allow a stay providing a proper bond be filed.

The provision relative to transfer of cases, if the act should pass, to a proper jurisdiction is radically defective. Under it the cases

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must be transferred as soon as the bill shall become a law, regardless as to whether they have proceeded to trial. This requirement would cause great expense of retrials, trouble, and delay to litigants.

The pending bill also repeals the provision that every common carrier subject to the interstate commerce law must designate in writing an agent in the city of Washington, D. C., upon whom service of all notices concerning suits pending before the Interstate Commerce Commission can be made. This has been regarded as a valuable adjunct to the enforcement of the law, and no necessity has been shown for its repeal.

The abolishment of the Commerce Court would probably repeal the provision by which one of its judges might be designated by the President to act as one of the mediators under the Erdman Act. This might prove embarrassing to the country at a time of great public difficulty, and there would seem to be no necessity for disturbing existing satisfactory conditions.

For these reasons the undersigned dissent from the report of the majority and oppose the passage of the bill.

F. C. STEVENS.
JOHN J. ESCH.
E. L. HAMILTON.
WILLIAM M. CALDER.
M. E. DRISCOLL.
R. F. BROUSSARD.
J. R. KNOWLAND.

EXHIBIT A.—*Litigation under the old plan.*

[Time elapsed from institution of suit in circuit court to the final termination of the litigation. All cases under the Hepburn Act up to period of transition to Commerce Court.]

Petitioner's name.	Length of years.	Litigation, months.
Delaware, Lackawanna & Western		2
Stickney	1	6
Chicago & Alton R. R. Co	1	7
Illinois Central R. R. Co	1	7
Baltimore & Ohio R. R. Co	1	4
Southern Pacific Co	2	7
New York Central & Hudson River R. R		5
		2
Delaware, Lackawanna & Western R. R. Co	1	7
Southern Pacific Terminal Co	2	6
Missouri, Kansas & Texas Ry	2	1
Delaware, Lackawanna & Western R. R. Co	2	7
Union Pacific R. R. Co. et al	3	3
Chicago, Rock Island & Pacific Ry. Co	1	7
Peavey	3	
Diffenbaugh	2	11
Chicago, Milwaukee & St. Paul Ry		3
Chicago, Burlington & Quincy R. R. Co	1	
Northern Pacific Ry. Co		9
Chicago, Rock Island & Pacific Ry	2	[1] 5
Philadelphia & Reading Ry. Co		2
Omaha & Council Bluffs Street Ry	2	(1)

[1] Not finished.

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EXHIBIT B.—*Injunction during litigation.*

[Length of time during which, under the old and new plans, orders of the commission were under injunction pending litigation.]

Name of petitioner.	Period during which order of commission was enjoined during litigation.		Final disposition of injunction.
	Yrs.	*mos.*	
Under circuit court plan:			
Stickney	1	5	Permanent.
Chicago & Alton R. R. Co	1	6	Reversed.
Delaware, Lackawanna & Western R. R. Co	1	4	Permanent.
	2	5	Reversed.
Chicago, Rock Island & Pacific Ry	1	6	Do.
Chicago, Burlington & Quincy R. R. Co		11	Do.
Northern Pacific Ry. Co		9	Do.
Omaha & Council Bluffs Street Ry	1	10	Waiting decision in Supreme Court.
Under Commerce Court plan:			
Goodrich Transit Co. (reports)		4	Do.
White Star Line (reports)		4	Do.
Baltimore & Ohio (lighterage charges)		[1] 8	Do.
Baltimore & Ohio (restricted coal rate)		[1] 8	Do.
Atchison, Topeka & Santa Fe (intermountain)		3	Do.
Southern Pacific Co. (switching)		8	Argument postponed until decision of above cases.
Atchison, Topeka & Santa Fe (switching)		8	Do.

[1] Five of these eight months were summer, during the Supreme Court recess.

EXHIBIT C.—*Comparative statement, circuit court, Commerce Court, and Supreme Court.*

This statement includes all suits instituted since the Hepburn Act of 1906.

	Circuit court.	Commerce Court.	Supreme Court.
Total cases (as per attached memoranda)	48	[1] 63	11
Cases withdrawn	[1] 31	19	.....
Cases finally decided by the court	17	11	11
Commission reversed	9½	4½	5
Commission upheld	7½	6½	6
Temporary injunctions granted	11	7	.....
Temporary injunctions denied	12	7	.....

[1] Includes the cases transferred from circuit court to Commerce Court.

The following shows the proportion of instances in which the Interstate Commerce Commission was finally reversed or upheld by the circuit court, the Commerce Court, and the Supreme Court.

	Circuit court.		Commerce Court.		Supreme Court.	
	Cases.	Per cent.	Cases.	Per cent.	Cases.	Per cent.
Commission reversed	9½	56	4½	41	5	45
Commission upheld	7½	44	6½	59	6	55

Attached is a detailed statement of all cases finally decided by the circuit courts under the old plan, with a further note of the conclusion reached by the Supreme Court; also a list of all Commerce Court cases and statement of final disposition thereof.

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EXHIBIT "I."—*All suits finally decided in the circuit court and Supreme Court since the Hepburn Act of 1906.*

[This does not include the 31 cases which were abandoned or transferred from the circuit court to the Commerce Court.]

Petitioner's name.	Commission upheld or reversed.	
	Circuit court.	Supreme Court.
Interstate Commerce Commission *v.* Harriman	Upheld	Reversed.
Chicago & Alton R. R. Co.	Reversed in part	Upheld.
Illinois Central R. R. Co.		
Southern Pacific Co.	Upheld	Reversed.
New York Central & Hudson River R. R. Co.	....do	Do.
Do.		
Delaware, Lackawanna & Western R. R.	Reversed	Reversed.
Southern Pacific Terminal Co.	Upheld	Upheld.
Delaware, Lackawanna & Western R. R. Co.	Reversed	Do.
Northern Pacific R. R. Co.	....do	Do.
Union Pacific R. R. Co.		
Great Northern R. R. Co.		
Chicago, Rock Island & Pacific R. R. Co.	....do	Do.
Peavey & Co.	....do	Reversed.
Diffenbaugh		
Chicago, Milwaukee & St. Paul R. R. Co.	Upheld	
Chicago, Burlington & Quincy R. R. Co.	Reversed	Upheld.
Northern Pacific R. R. Co.	....do	Reversed.
Pennsylvania & Reading R. R. Co.	Upheld	
Omaha & Council Bluffs Street Ry. Co.	Reversed	
Humbolt Steamship Co.	....do	

NOTE.—Circuit court was reversed by Supreme Court in 7 cases out of 11.

EXHIBIT II.—*List of all Commerce Court cases.*

Docket No.	Petitioner's name.	Preliminary injunction.	Final decision by Commerce Court upholding or reversing Commission.	Further proceedings.
1	Southern Pacific Co.	Granted		Treated as one case. Appeal to Supreme Court direct from preliminary injunction.
2	Atchison, Topeka & Santa Fe Ry.			
3	Atlantic Coast Line et al.			Demurrer overruled in part; sustained in part. No further action as yet.
4	Louisville & Nashville		Reversed	No further action as yet.
5	James J. Hooker et al.		Upheld	Consolidated as one case. Appealed.
6	Eagle White Lead Co. et al.			
7	Atchison, Topeka & Santa Fe Ry.		Reversed	
8	Interstate Commerce Commission *v.* Nashville & Chattanooga.			Dismissed by stipulation.
9	Proctor & Gamble Co.		Upheld	
10	Delaware, Lackawanna & Western Ry.			Do.
11	New York, Ontario & Western Ry.			Do.
12	Central R. R. of New Jersey			Do.
13	Delaware, Lackawanna & Western Ry.			Do.
14	New York Central & Hudson River R. R.			Do.
15	United States of America ex rel. *v.* Union Stock Yards.		Commission granted mandamus as to some; refused as to others.	Appealed.
16	Chicago, Milwaukee & St. Paul R. R.			Dismissed by stipulation.
17	....do			Do.
18	Russe & Burgess			One case. Demurrer overruled. Waiting further answer or appeal.
19	Thompson Lumber Co.			
20	Chicago, Rock Island & Pacific Ry.			Continued.

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EXHIBIT II.—*List of all Commerce Court cases*—Continued.

Docket No.	Petitioner's name.	Preliminary injunction.	Final decision by Commerce Court upholding or reversing Commission.	Further proceedings.
21	Goodrich Transit Co			
22	do			
23	White Star Line		Reversed	One case. Appealed.
24	do			
25	Omaha & Council Bluffs Street Ry	Granted (by circuit court).	Upheld	Appealed by petitioner, argued, and waiting decision.
26	United States ex rel. v. Long Island Ry.			Dismissed by stipulation.
27	New York Central & Hudson River R. R.			Do.
28	Delaware, Lackawanna & Western Ry.		Reversed (by circuit court).	Supreme Court sustains reversal.
29	Pennsylvania R. R			Dismissed by stipulation.
30	Lehigh Valley R. R			Do.
31	Pennsylvania R. R		Upheld	Appealed.
32	Southern Pacific Co			Continued.
33	do			Do.
34	Atchison, Topeka & Santa Fe Ry			Do.
35	Denver & Rio Grande R. R			Under advisement.
36	Atchison, Topeka & Santa Fe Ry	Denied		None.
37	Pennsylvania & Reading R. R. Co			Dismissed by stipulation.
38	Baltimore & Ohio R. R	Granted		Appealed to Supreme Court.
39	do	do		Do.
40	Norfolk & Western Ry	Denied		None.
41	Atchison, Topeka & Santa Fe Ry	do		Do.
42	Arkansas Fertilizer Co		Upheld	No appeal.
43	Boston & Maine R. R			Dismissed by stipulation.
44	Southern Railway Co			Do.
45	New York, New Haven & Hartford RR.			Do.
46	Nashville Grain Exchange	Granted		Consolidated, none yet
47	Louisville & Nashville R. R			
48	Erie R. R			Dismissed by stipulation.
49	Lehigh Valley R. R	Denied		None yet.
50	Atchison, Topeka & Santa Fe Ry	Granted	Reversed	1 case. Appealed.
51	Union Pacific R. R			
52	Denver & Rio Grande R. R	Denied		Dropped.
52	United States ex rel v. Lehigh Valley R. R.			Dismissed by stipulation.
54	Anaconda Copper Mining Co			Not yet argued.
55	Crane Iron Works			Do.
56	Kansas City Southern Ry. Co			Trial pending.
57	United States ex rel v. Louisville & Nashville R. R.		Commission gets mandamus it asked.	
58	Florida East Coast Ry. Co	Granted		Do.
59	Southern Pacific Ry			Commission's motion to strike out granted. Waiting further pleadings.
60	Baltimore & Ohio Southwestern R.R. Co.	Granted		Pending trial.
61	Atchison, Topeka & Santa Fe Ry	Denied		None.
62	O'Gara Coal Co	do		Pending trial on merits.
63	Cattle Raisers' Association of Texas			No action taken yet.

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EXHIBIT D.—*Applications to the Commerce Court for temporary injunctions.*

Number of case.	Title.	Result.
36	Atchison, Topeka & Santa Fe Ry. Co. *v.* United States	Temporary injunction denied.
38	Baltimore & Ohio R. R. Co. *v.* United States	Temporary injunction granted.
39	do	Do.
40	Norfolk & Western Ry. Co. *v.* United States	Temporary injunction denied.
41	Atchison, Topeka & Santa Fe Ry. Co. *v.* United States	Do.
47	Louisville & Nashville R. R. Co. *v.* United States	Temporary injunction granted.
49	Lehigh Valley R. R. Co. *v.* United States	Temporary injunction denied.
50-51	Atchison, Topeka & Santa Fe Ry. Co. *v.* United States, and Union Pacific R. R. Co. *v.* United States.	Temporary injunction granted.
52	Denver & Rio Grande R. R. Co	Temporary injunction denied.
58	Florida East Coast Ry. Co. *v.* United States	Temporary injunction granted.
60	Baltimore & Ohio Southwestern R. R. *v.* United States	Do.
61	Atchison, Topeka & Santa Fe Ry. Co. *v.* United States	Temporary injunction denied.
62	O'Gara Coal Co. *v.* United States	Do.

SUMMARY.

Temporary injunctions granted	6
Temporary injunctions denied	7

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 475.

MINING LAWS IN THEIR APPLICATION TO TERRITORY OF ALASKA.

MARCH 29, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FLOOD of Virginia, from the Committee on the Territories, submitted the following

REPORT.

[To accompany H. R. 18033.]

The Committee on the Territories, to whom was referred the bill (H. R. 18033) to modify and amend the mining laws in their application to the Territory of Alaska, and for other purposes, having had the same under consideration, reports it back with amendments and recommends that the bill as amended do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 477.

PHYSICAL VALUATION OF THE PROPERTY OF CARRIERS.

MARCH 30, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 22593.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, having considered the same, report thereon with a recommendation that it pass.

The Interstate Commerce Commission, in its annual reports, has often set forth the importance of an official valuation of the property of the carriers subject to the act to regulate commerce. The difficulties encountered in the effort to correct rates through the claims as to valuation of property have been described. The opinions of the courts likewise have laid great stress upon the element of valuation as a factor in determining rates. The people not only acquiesce in those views but they desire accurate information on the subject. Perhaps at one time or another every Member of the House of Representatives who has served more than one term has voted to authorize such official valuation. It seems to be universally favored regardless of partisan lines. Not less important is the matter of information as to the stocks and bonds of the carrier corporations, the manipulation of the finances which control those carriers, and the boards of directors, stockholders, and bondholders themselves, who really give direction to all their affairs. The anomaly has grown up, gradually and unconsciously as it were, grown up in the courts themselves as well as the commission, that public carriers are to be allowed to charge an income on what they owe as well as on what they own. Nobody else in the world with whom we are acquainted is allowed that privilege. First, there is a claim set up of the investment, actual or watered, and an income is allowed for that. Then, as a part

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of the fixed charges—annual burden of doing business—the interest on the bonds is considered and allowance made for that, whether the bonds sold at par or at a liberal discount, or whatever the circumstances may have been. Furthermore, financial institutions and sources either identical or more or less related, secure control of the issues of stock and the boards of directors and thereby easily control the issues of bonds. Then it is not surprising that common stockholders and common directors in different corporations manage to place the bonds in the hands of common bondholders.

Whatever the evils or advantages of such financial manipulation and consolidation may be, it is unnecessary in this report to discuss. The complaints of millions of shippers attest the dissatisfaction of the people. They are entitled to have the truth known. Full information, full publicity as to the true conditions of the issues of stocks and bonds, the cost to the holder, the price realized by the carriers, the disposition of the money, the facts as to the manipulations, will all shed light upon the question of correcting rates by the commission and their revision by the courts, and the information of all those things will help the people to a correct understanding thereof. If the wrongs complained of have been exaggerated the people will be satisfied when they know the truth. If, on the other hand, the alleged wrongs or any considerable part of them are shown by the investigation really to exist, in the light of the truth they can be corrected. It is our intention in reporting this bill that when the proposed investigation shall have revealed the truth as to the matters involved, the light shall continue to shine on all future transactions and operations as to physical property, stocks, bonds, boards of directors, and financial control. To that end the bill provides that the commission shall continue to keep itself informed by continuing the investigation as to all extensions and new constructions and improvements and all increases in physical value, so as to keep such official valuation up to date all the time. Existing law, in section 20 of the act to regulate commerce, already provides for similar work and information as to stocks and bonds, so that if this bill passes it will not only result in securing information as to present conditions but also in continuing the work so as to show forth the full truth and exact facts as to future transactions as they occur, so as to show the true condition at all times.

We hope that the bill herewith reported may meet with the approval of Congress and speedily become a law.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 478.

RETIREMENT OF CERTAIN ARMY OFFICERS.

APRIL 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCKELLAR, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 14084.]

The Committee on Military Affairs, to whom was referred H. R. 14084, a bill authorizing the retirement, with increased rank, of officers now on the active list of the Army who served in the Civil War, having considered the same recommend that the bill do not pass.

The provisions of the bill are as follows:

> That any officer now on the active list of the Army who served not less than one hundred days in the regular or volunteer forces of the United States during the Civil War and prior to April ninth, eighteen hundred and sixty-five, who was honorably discharged therefrom, and who shall since have served not less than forty years as a commissioned officer of the Regular Army, shall, at his own request, be placed on the retired list of the Army, with the rank of major general.

Examination of the last annual report of The Adjutant General of the Army and the last Army Register shows that there are now on the active list of the Army four officers who were in the military service of the United States during the Civil War. These officers are Brig. Gen. Daniel H. Brush, who will be retired from active service May 9, 1912, on reaching the statutory limit of 64 years of age; Col. John L. Clem, Assistant Quartermaster General, who will be retired for the same cause August 13, 1915; Col. James H. Allison, Assistant Commissary General, who will be retired at 64 years of age September 4, 1912; and Maj. Daniel W. Arnold, quartermaster, who will be retired at the same age on September 11, 1912. As Maj. Arnold, who served in the Civil War as a private of the One hundred and thirty-fourth Illinois Infantry Volunteers from May 14 to October 25, 1864, did not become a commissioned officer of the Regular Army until May 15, 1901, when, at the age of nearly 53 years, he accepted appointment in that Army as a quartermaster with the rank of captain, his total service in the Regular Army amounts to only about 11 years, and consequently he does not come within the terms of the pending bill. The only

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persons who would be benefited by the enactment of the bill are Brig. Gen. Brush and Cols. Clem and Allison, all three of whom served for more than 100 days in the Volunteer Army during the Civil War prior to April 9, 1865, and all of whom have served more than 40 years as commissioned officers of the Regular Army.

It is shown by the Army Register that Gen. Brush was in service during the Civil War as a private of the One hundred and forty-fifth Illinois Infantry Volunteers from May 22 to September 23, 1864, a period of 124 days. He was appointed a cadet at the United States Military Academy, entered that institution September 1, 1867, and on June 12, 1871, after graduation from the academy, was appointed a second lieutenant in the Regular Army, in which he has continued to hold a commission to the present time. He was appointed a brigadier general February 17, 1908, and now holds that rank.

Col. Clem is shown by the Army Register to have been a musician and lance sergeant of the Twenty-second Michigan Infantry Volunteers from May 1, 1863, to September 19, 1864, a period of about 16 months. He was appointed a second lieutenant in the Regular Army December 18, 1871, accepted appointment January 23, 1872, and since that date has continuously held a commission in said Army. Having been transferred from the line to the staff by appointment in the Quartermaster's Department, he was promoted in regular order in that department until, on August 15, 1903, he became an Assistant Quartermaster General with the rank of colonel. He holds that position at this time.

The Army Register shows that Col. Allison was a private of the Thirty-ninth Kentucky Infantry Volunteers from August 10, 1863, to June 3, 1865, a period of about 1 year and 10 months. He was appointed a cadet at the Military Academy, entered that institution September 1, 1867, was graduated therefrom and appointed a second lieutenant in the Regular Army June 12, 1871, and has been a commissioned officer thereof continuously since that time. Having been transferred from the line to the Subsistence Department, he was promoted in regular order in that department to be an Assistant Commissary General with the rank of colonel October 13, 1907, and holds that position at this time.

The act of Congress approved April 23, 1904 (33 Stat. L., 264), provides for retirement, with an advance of one grade in rank and pay of certain classes of officers below the grade of brigadier general who served in the regular or volunteer forces, either as officers or enlisted men, during the Civil War prior to April 9, 1865. It also provided, subject to the same conditions, for a like advancement in the pay and rank of officers of the same classes who were on the retired list at the time of the enactment of the law in question. Under this law Cols. Clem and Allison are now eligible for retirement as brigadier generals, but Gen. Brush, having already attained the rank of brigadier general, is not eligible for further advancement in rank upon retirement.

The committee is convinced that it is high time to call a halt to legislation increasing the rank and pay of officers on the retired list of the Army, and that in future no such legislation should be enacted except in recognition of extraordinarily valuable services, or for conspicuous services on the field of battle, or to correct manifest injustice. The committee do not believe that any such legislation

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should be enacted for the benefit of any officer, regardless of whether or not he served in the Civil War or any other war, whose only or principal claim to consideration is that he has served long and faithfully and has not received all the advancement in rank that he or his friends think he ought to have received. Plainly stated, the truth is that with but few exceptions the rewards received by officers who reach the retired lists of the Army and the Navy are a most generous return for all the services that they have rendered to the public and are far in excess of any compensation that could have been brought to them in private life by the same amount of energy and ability that they have displayed in the service of the Government.

The pending bill proposes to give these officers the rank of major general upon retirement—in other words, to give one of them, Gen. Brush, an advancement of one grade, and the other two, Cols. Clem and Allison, an advancement of two grades each. The committee do not believe that any one of these advancements in grade is justifiable, and in this view it is supported by the Secretary of War, who, in a letter to the chairman of the Committee on Military Affairs, says that the act of April 23, 1904, is adequate recognition and reward of an exceptional character.

The brief Civil War services of Gen. Brush, and any subsequent services rendered by him in the Regular Army, appear to have been fully rewarded by his appointment to the Military Academy and by his subsequent promotion in the Army to his present high rank. And the Civil War services of Cols. Clem and Allison, however spectacular that of one of them may have been, and their subsequent services in the permanent military establishment appear to have been generously recognized by the appointments and promotions that they have received and by the provision of existing law under which both will receive the rank of brigadier general on retirement.

Furthermore, the enactment of the pending bill would greatly strengthen the precedents, unwisely made in the past, for similar legislation in the future. Indeed, it may be regarded as certain that the passage of this bill would be made the basis of a demand for similar legislation for the benefit of a large number of officers now on the retired list, many of whom have even stronger claims to such recognition of the value of their services than have any of the officers who would be benefited by the passage of the pending bill. Congress could not fairly or logically resist such a demand after approving and passing this bill.

In support of its conclusions that it is high time to call a halt to legislation increasing the rank and pay of officers on the retired list of the Army, the committee deem it advisable to call attention to the condition into which that list has been brought by recent legislation—viz, the act of Congress approved April 23, 1904, hereinbefore cited. As shown by the last annual report of The Adjutant General of the Army, out of 1,007 officers on the Army retired list on June 30, 1911, 285, or more than one-fourth of the whole number, had received an advancement of one grade in rank under the act of April 23, 1904. Of the officers thus advanced, 92 had been advanced to be brigadier generals, 25 to be colonels, 45 to be lieutenant colonels, 92 to be majors, 27 to be captains, and 4 to be first lieutenants. The friends of the retired list, and specially those who look forward to the enjoyment of the privileges that it now offers them as a refuge in

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their old age, or when disabled in the line of duty, will do well not to propose or to encourage the proposal of any further legislation of the character of that embodied in the act of April 23, 1904, or contemplated in the pending bill.

The three officers for whose benefit this bill was proposed served the country in the Civil War, and since they were commissioned in the Regular Army they have faithfully discharged the duties assigned them; but that is no reason for the enactment of exceptional legislation that would make an embarrassing precedent.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 479.

TRANSFER OF CERTAIN LAND TO CITY OF UVALDE, TEX.

APRIL 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FRENCH, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany H. R. 22301.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 22301) to authorize the Secretary of the Treasury to convey to the city of Uvalde, Tex., certain land for sidewalk purposes, beg to report the same with the recommendation that the bill do pass.

In order that there may be no conflict of authority between the Federal Government and the city of Uvalde, Tex., the Treasury Department desires the enactment of the legislation sought by the bill. Under the provisions of the bill a strip off the west and south sides of the Federal building site at Uvalde of sufficient width to provide a 10-foot sidewalk, and for no other purpose, is authorized to be deeded to the city, and it is provided that the city shall construct and maintain the sidewalk the same as other sidewalks in that city are constructed and maintained. The views of the Secretary of the Treasury are set forth in the following letter:

TREASURY DEPARTMENT,
Washington, March 28, 1912.

The CHAIRMAN COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
House of Representatives.

SIR: Referring to your request for a report in connection with H. R. 22301, authorizing the Secretary of the Treasury to convey to the city of Uvalde, Tex., a certain strip of land, I have the honor to inform you that this department will interpose no objection to said bill being enacted into law and will take the necessary steps to transfer the property in question to the city upon such legislation being enacted.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

In view of the fact that the interests of the Government will in no way suffer by the conveyance of this strip, and in order that jurisdiction over the strip may be definitely defined, the committee recommends the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 480.

ANNUAL REPORTS OF SUPERVISING INSPECTORS, STEAMBOAT-INSPECTION SERVICE.

APRIL 1, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 22343.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 22343) to require supervising inspectors, Steamboat-Inspection Service, to submit their annual reports at the end of each fiscal year, having considered same, report it to the House with the recommendation that it do pass.

The desirability of this legislation is fully set forth in House Document No. 377, Sixty-second Congress, second session, said document being as follows:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, December 26, 1911.

SIR: I have the honor to submit herewith for the consideration of the House the inclosed letter, dated December 8, 1911, to the department, from the Supervising Inspector General of the Steamboat-Inspection Service, concerning the need of amendatory legislation with respect to the date of making annual reports by the several supervising inspectors, and I desire to say that the recommendation contained in the letter referred to is approved by this department.

Respectfully,

CHARLES NAGEL, *Secretary.*

The SPEAKER HOUSE OF REPRESENTATIVES.

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DEPARTMENT OF COMMERCE AND LABOR,
STEAMBOAT-INSPECTION SERVICE,
Washington, December 8, 1911.

The SECRETARY OF COMMERCE AND LABOR,
Washington, D. C.

SIR: This bureau has the honor to submit the following resolution adopted by the Board of Supervising Inspectors, Steamboat-Inspection Service, on January 24, 1911, and approved by the Secretary of Commerce and Labor on March 8, 1911:

Resolved, That this board recommends that the following bill be presented to the Congress of the United States for adoption:

"A BILL To require supervising inspectors, Steamboat-Inspection Service, to submit their annual reports at the end of each fiscal year.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section forty-four hundred and ten, Revised Statutes of the United States, be, and it is hereby, amended to read as follows:

"'SEC. 4410. Each supervising inspector shall report, in writing, at the end of each fiscal year, to the Supervising Inspector General, the general business transacted in his district during the year, embracing all violations of the laws regulating vessels, and the action taken in relation to the same; all investigations and decisions by local inspectors; and all cases of appeal, and the result thereof. The board shall examine into all the acts of each supervising inspector and local board, and all complaints made against the same, in relation to the performance of their duties under the law, and the judgment of the board in each case shall be entered upon their journal; and the board shall, as far as possible, correct mistakes where they exist.'

"This act shall take effect and be in force on and after the first day of July, nineteen hundred and twelve."

And this bureau recommends that the proposed bill be presented to Congress by the department for adoption.

The present annual reports of this bureau consist of a summary of the operations of the service for the fiscal year, with an appendix containing general statistics, a statement of vessels inspected, a detailed statement of casualties and violations of law, etc., for the calendar year ending six months preceding the end of the fiscal year for which report is made. A list of officers licensed during the calendar year is also published, under the provisions of sections 4410 and 4411, Revised Statutes.

It is desirable and practicable that all of these reports be made by fiscal years, which is the almost universal custom.

A copy of the annual report of this bureau for the fiscal year ended June 30, 1911, and of the list of licensed officers for the calendar year 1910, and a copy of the laws governing the Steamboat Inspection Service, containing on page 11 sections 4410 and 4411 referred to herein, are herewith inclosed.

Respectfully,

GEO. UHLER,
Supervising Inspector General.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 482.

LOAN OF TENTS TO G. A. R. ENCAMPMENT.

APRIL 2, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HAMILTON of West Virginia, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. J. Res. 77.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. J. Res. 77) authorizing the Secretary of War to loan certain tents for the use of the Grand Army of the Republic encampment, to be held at Pullman, Wash., in June, 1912, having considered the same, report thereon with a recommendation that it do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 483.

PROTECTION OF LEVEES ON MISSISSIPPI RIVER.

APRIL 2, 1912.—Ordered to be printed.

Mr. RANSDELL of Louisiana, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany H. R. 22733.]

The Committee on Rivers and Harbors, to whom was referred H. R. 22733, being a bill appropriating $350,000 for the purpose of maintaining and protecting against floods the levees on the Mississippi River heretofore constructed in whole or in part by the United States, beg leave to report as a substitute therefor the following bill, with recommendation that when so substituted the bill do pass.

The substitute bill, H. R. 22772, which carries an appropriation of $350,000, the same amount carried by the original bill, has the approval of the Chief of Engineers. Moreover, the President has this day transmitted to Congress a special message recommending an appropriation of $500,000 for the same purpose.

The committee believes the emergency to be very great and recommends the immediate passage of the bill. The amendments are simply verbal. They make very slight change in the general character of the bill, and do not change the amount carried therein.

The amended bill is as follows:

A BILL Appropriating three hundred and fifty thousand dollars for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three hundred and fifty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the purpose of maintaining and protecting against impending floods the levees on the Mississippi River between the Head of Passes and Cape Girardeau, Missouri.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 484.

BRIDGE ACROSS MISSOURI RIVER AT SOUTH SIOUX CITY, NEBR.

APRIL 2, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. MARTIN of South Dakota, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 21821.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 21821) to authorize the city of South Sioux City, in the State of Nebraska, to construct a bridge across the Missouri River between the States of Nebraska and Iowa, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

MARCH 27, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (H. R. 21821) to authorize the construction of a bridge across Missouri River between the States of Nebraska and Iowa, is in the usual form and makes sufficient provision for the protection of navigation interests. So far as those interests are concerned I know of no objection to the favorable consideration of the bill by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *March 29, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 485.

CHARGES FOR TRANSPORTATION OF PARCELS BY EXPRESS COMPANIES.

APRIL 3, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 12810.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 12810) regulating charges for transportation of parcels by express companies engaged in interstate commerce, having considered the same, report thereon with amendment, and as so amended recommend that it pass.

Amend the bill as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the rates hereinafter stated shall hereafter be the maximum rates to be applied either in first fixing rates by the express companies or in their correction or regulation by the Interstate Commerce Commission, and no higher rates shall be charged and collected by express companies engaged in interstate commerce for receiving, transporting, and delivering packages or parcels not exceeding eleven pounds in weight and valued at not more than eighty dollars between a point in one State, Territory, or District in the United States and another point in a different State, Territory, or District in the United States, whether the transportation occurs on the line of a single express company or on a through route or shipment operated by two or more connecting express companies:

Between any two points in the United States more than two thousand miles apart, twelve cents per pound.

Between any two points not more than two thousand miles apart, ten cents per pound.

Between any two points not more than one thousand two hundred miles apart, seven cents per pound.

Between any two points not more than eight hundred miles apart, five cents per pound.

Between any two points not more than six hundred miles apart, four cents per pound.

Between any two points not more than two hundred and fifty miles apart, two cents cents per pound.

Provided, That no company shall be required to carry any package for less than ten cents.

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SEC. 2. That any person delivering to any agent or office of any express company in the United States any parcel at the time under the law mailable on rural routes plainly addressed to any person or in care of any person on any rural mail route, the initial post office of which is at or in the same town, village, or city with any express office of any express company, may pay in advance both the proper express charges and the United States postage required to carry such parcel on the rural mail route. On arrival at the terminal express office of the same or any connecting express company where originates the mail route to which the parcel is directed the agent at such office shall mail such parcel, paying the proper postage thereon. Likewise any person on any rural route, the initial post office of which is in the same town, city, or village with any express office, may, in addition to paying the postage appropriate on any parcel at the time under the law mailable on rural routes addressed and mailed to any person at any express office in the United States, pay to the rural letter carrier the proper express charges thereon to the point of destination, whereupon it shall be the duty of such rural letter carrier upon his return to his initial post office to deliver such parcel to the express office and prepay the express thereon.

It shall be the duty of the postmasters and the express agents to execute receipts to conform to this provision.

SEC. 3. That it shall be unlawful for any express company operating a single line or any number of express companies making a through route or shipment to charge more in the aggregate than the maximum price fixed for any distance set out in section one of this act or to fail or refuse to do any act or render any service provided in section two of this act. In case any express company shall violate any provision of this act it shall forfeit one hundred dollars, with reasonable attorney's fees and such damages as may be proved in addition thereto, to either the consignor or the consignee upon a suit brought in any court, State or Federal, within the jurisdiction of which court such violation shall have occurred.

The purpose of this bill is to facilitate and perfect, at least to improve, the regulation of the express companies, and by requiring cooperation with rural routes give to the people in the rural communities the advantage of transportation, convenient, safe, and at reasonable prices for small parcels.

It has been six years since the act to regulate commerce was amended with a view to subjecting the express companies to its provisions. The progress made up to this time in bringing them to practices and charges reasonable and agreeable to the people has been very unsatisfactory. So it was deemed essential to make some further effort at regulation. Your committee concluded that it would be wise to fix maximum rates adjudged by Congress to be reasonable and just as a guide to the express companies in the first instance and to the Interstate Commerce Commission in the second instance in correcting and adjusting rates. It is true that the fixing of maximum rates is somewhat novel in our practices—may be denominated as an innovation—but it is not revolutionary nor drastic nor even arbitrary. It is believed that the maximum rates fixed in the bill are such as will prove remunerative to the express companies. In fact, this legislation is already producing its effect. It has come to the knowledge of the committee that since this bill was introduced the companies are giving their attention to improved methods and more economical measures and practices in the transaction of their business so as to enable them to render better treatment to their patrons. Certainly the zone system can not be regarded as new to them. They have always practiced that in a way, and when they bring all their business to a proper system, eliminating complex and expensive accounting and thousands and hundreds of thousands of confusing and misleading rates filed, they will, in the judgment of the committee, find their business remunerative and compliance with the terms of this bill easy and satisfactory.

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The designation of an 11-pound limit is nothing arbitrary at all, but is adopted in order to conform to the limit usually spoken of in postal affairs. The Postal Union limits the weight of a package to 11 pounds and the value to $80. It is assumed that provision will be made to apply the same limits to parcels carried by the Government on rural routes so that this system can be easily adjusted and made conformable to this postal arrangement.

The Government, having constitutional power, absolute and plenary, to regulate commerce between the States, can control the charges and practices of the express companies as absolutely and completely as if the Government owned all those companies with all their property and instrumentalities and paid all of their agents and operatives. The power of the Government can be no greater over what it owns itself than over what is owned by its subjects so far as regulation for public purposes is concerned. The committee, having jurisdiction over the subject of transportation, believes it our duty to give attention to this subject and if possible to secure the enactment of such legislation as will make these transportation companies serviceable to the people without waiting for any other department of the Government to assume and exercise powers, prerogatives, and duties which would not be necessary if those charged with the responsibility for transportation had done their duty in the first instance. By reporting this bill the committee believes that it does its full duty in presenting to the House a scheme which, if adopted, will result in satisfaction to the people as to the transportation of their small parcels.

The arrangement provided for cooperation with the rural routes, in our judgment, completes the system, and will give the benefit of transportation to people remote from railroads wherever the initial office of the rural route is contiguous to an express company. A person at an express office desiring to transmit a package to a person on a rural route, however distant, has only to pay the postage provided by law on the rural route and pay the express on the package, both of which are easily ascertainable, and have the package sent by express to the terminal office and mailed to the consignee on the rural route. Vice versa, any person on a rural route, by paying the required postage and paying the express on the package to the rural carrier, can have his package sent to any point on any express line in the United States.

The bill provides that the express agent and the postmaster shall execute proper receipts to conform to the provisions of the bill.

The committee hopes that the proposed legislation may find favor with Congress and may speedily become a law.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 486.

DESIGNATION OF CERTAIN LANDS FOR USE AS A PUBLIC HIGHWAY.

APRIL 3, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MORGAN, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 16611.]

The Committee on the Public Lands, to which was referred the bill (H. R. 16611) setting apart a certain tract of land for use as a public highway, having had the same under consideration, recommends that the bill be amended as hereinafter set forth and that as amended it do pass.

Amend the bill by substituting a comma for the colon after the word "such," in line 14, on page 1, and by inserting thereafter the following words, to wit:

on condition that the city of Anadarko, Oklahoma, erect a substantial and suitable fence along the south side of the road hereby set apart, subject to the approval of the Secretary of the Interior.

Amend by inserting a colon immediately following the foregoing words, so that the bill when so amended will read as follows, to wit:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a tract of land sixty-six feet wide and about three-fourths of a mile in length, situate in Caddo County, State of Oklahoma, described as follows, to-wit: Beginning on the section line between sections fourteen and fifteen, township numbered seven north, range ten west of the Indian meridian, at a point sixty-six feet south of the right of way of the Chicago, Rock Island and Pacific Railway, thence east on a line parallel with a right of way of said railway, for a distance of about three-fourths of a mile to the intersection of the public highway running north and south, be, and the same is hereby, set apart as a public highway for the use of the public as such, on condition that the city of Anadarko, Oklahoma, erect a substantial and suitable fence along the south side of the road hereby set apart, subject to the approval of the Secretary of the Interior: *Provided,* That should said highway ever be vacated by any competent authority the title to the said described tract of land shall inure to the then owner of the tract of which it formed a part by the original survey.

As a part of this report, letters from the Assistant Secretary of the Interior dated January 30, 1912, and from the Acting Secretary of the Interior dated February 26, 1912, are hereby submitted.

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DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1912.

Hon. JOE T. ROBINSON,
Chairman Committee on the Public Lands,
House of Representatives.

SIR: I have the honor to acknowledge receipt, by your reference dated January 13, 1912, of a copy of H. R. No. 16611, entitled "A bill setting apart a certain tract of land for public highway, and for other purposes."

An investigation discloses that the tract of land described in the bill above mentioned is located in the S. ½ of sec. 14, T. 7 N., R. 10 W., which, with the exception of the E. ½ of SE. ¼, was ceded to the United States by the agreement made with the Comanche, Kiowa, and Apache Tribes of Indians on October 21, 1892, ratified and amended by the act of June 6, 1900 (31 Stat. L., 672, 676), and is reserved for the use of the Comanche, Kiowa, and Apache Indian Agency. The E. ½ of the SE. ¼ is shown by the records of the Indian Office to have been allotted to William F. Dietrick. The records of the Indian Office show that he has received a patent in fee for his allotment, the same being transmitted to him through his attorney, W. C. Shelley, under date of April 25, 1903.

Without a report from its representative in the field the department is unable to determine whether the establishment of the highway along the course indicated in the bill would interfere with the use of the lands mentioned for agency purposes.

The Indian Office has requested the superintendent of the Kiowa Indian School to submit an immediate report on the matter, on receipt of which the department will communicate with you further.

Respectfully,

CARMI A. THOMPSON,
Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, February 26, 1912.

Hon. JOE T. ROBINSON,
Chairman Committee on the Public Lands,
House of Representatives.

SIR: I have the honor to inform you that the Indian Office is now in receipt of a letter and telegram from the superintendent of the Kiowa Indian School, Andarko, Okla., dated February 1 and February 13, 1912, respectively, reporting on H. R. 16611, entitled "A bill setting apart a certain tract of land for a public highway and for other purposes," a copy of which was referred to this department by your letter dated January 13, and to which response was made on January 30, 1912.

The superintendent says that the proposed road would make it possible to avoid a long, sandy pull along the south boundary of sec. 14, T. 7 N., R. 10 W., and that it would not interfere with the use of the SW. ¼ and W. ½ of SE. ¼ of said section for agency purposes. He recommends that no consideration be required for the land necessary for the proposed road except that the city of Anadarko, Okla., be required to fence it with a good four-strand galvanized-wire fence, in order that that part of the tract reserved for agency purpose situated south of the proposed road may be used as a pasture.

The SW. ¼ and the W. ½ of SE. ¼ of sec. 14, T. 7 N., R. 10 W., was ceded by the Indians to the United States by virtue of an agreement made October 6, 1892, which was ratified by the act of Congress approved June 6, 1900 (31 Stat. L., 676), and has been withdrawn from settlement and entry to be used for Indian agency purposes.

In view of the facts above presented, I have the honor to recommend that the bill be modified by substituting a comma for the colon after the word "such," in line 14 of page 1, and by inserting thereafter the words:

"On condition that the city of Anadarko, Oklahoma, erect a substantial four-wire fence along the south side of the road hereby set apart, subject to the approval of the Secretary of the Interior."

If the bill be modified in accordance with the above recommendation, this department will offer no objection to the proposed legislation being enacted into law.

Respectfully,

SAMUEL ADAMS, *Acting Secretary.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 487.

RIGHT OF WAY ACROSS FORT MASON MILITARY RESERVATION, CAL.

APRIL 4, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SLAYDEN, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 22204.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 22204) granting a right of way to the Panama-Pacific International Exposition Co., or any other party or parties approved by the Secretary of War, across the Fort Mason Military Reservation in California, report the same to the House with the recommendation that as amended the bill do pass.

Amend by adding:

SEC. 2. That the act approved January eighth, nineteen hundred and nine, entitled "An act granting a right of way to the Southern Pacific Railroad Company across the Fort Mason Military Reservation in California" be, and the same is hereby, repealed.

The following letter from the Secretary of War fully explains the nature of the proposed legislation and the reason for it:

WAR DEPARTMENT,
Washington, March 29, 1912.

The CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

SIR: I have the honor to return herewith a bill (H. R. 22204) granting a right of way to the Panama-Pacific International Exposition Co., or any other party or parties approved by the Secretary of War, across the Fort Mason Military Reservation in California, which was referred to me for information and remark.

The construction of a tunnel under Fort Mason is highly desirable, in order that direct railroad connection can be had with the warehouses and wharves at the Army supply depot without the necessity of the construction by the Government of a railroad track around the edge of the Fort Mason Reservation. In this connection I desire to invite your attention to the fact that by act of Congress approved January 8, 1909, it was provided:

"That the consent of the United States is hereby given to the Southern Pacific Company, a corporation created and existing under the laws of the State of Kentucky, to locate, construct, maintain, and operate a railroad and tunnel upon and across the

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property belonging to the United States at Fort Mason in the State of California, upon such location and under such regulations as shall be approved by the Secretary of War."

The Southern Pacific Co., after considerable correspondence on the subject, on November 9, 1910, stated that they had decided not to construct the tunnel.

It is believed that it should distinctly appear that the grant to the Southern Pacific Co. has become inoperative. It is therefore recommended that a section be added to the bill now in reference substantially as follows:

"SEC. 2. That the act approved January eighth, nineteen hundred and nine, entitled 'An act granting a right of way to the Southern Pacific Railroad Company across the Fort Mason Military Reservation in California' be, and the same is hereby, repealed."

As thus amended, it is recommended that the bill be given favorable consideration.

Very respectfully,

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 490.

EXCHANGE OF CONGRESSIONAL RECORD FOR PARLIAMENTARY HANSARD.

APRIL 4, 1912.—Ordered to be printed.

Mr. FINLEY, from the Committee on Printing, submitted the following

REPORT.

[To accompany S. J. Res. 93.]

The Committee on Printing having had under consideration the Senate joint resolution (S. J. Res. 93) authorizing the Librarian of Congress to furnish a copy of the daily and bound Congressional Record to the under secretary of state for external affairs of Canada in exchange for a copy of the Parliamentary Hansard, reports the same back to the House with the recommendation that the resolution be agreed to.

The said resolution is as follows:

JOINT RESOLUTION Authorizing the Librarian of Congress to furnish a copy of the daily and bound Congressional Record to the under secretary of state for external affairs of Canada in exchange for a copy of the Parliamentary Hansard.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is hereby authorized to furnish a copy of the daily and bound Congressional Record to the under secretary of state for external affairs of Canada in exchange for a copy of the Parliamentary Hansard, and that the Public Printer is hereby directed to honor the requisition of the Librarian of Congress for such copy. The Parliamentary Hansard so received shall be the property of the Department of State.

Passed the Senate March 28 (calendar day, March 29), 1912.

Attest:

CHARLES G. BENNETT,
Secretary.

By H. M. ROSE,
Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 497.

HUMBERTO MENCIA AND JUAN DAWSON.

APRIL 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. WATKINS, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. J. Res. 87.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. J. Res. 87) authorizing the Secretary of War to receive for instruction at the United States Military Academy, at West Point, Messrs. Humberto Mencia and Juan Dawson, of Salvador, having considered the same, report thereon with a recommendation that it do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 498.

MANUEL AGÜERO Y JUNQUÉ.

APRIL 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. WATKINS, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. J. Res. 91.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. J. Res. 91) authorizing the Secretary of War to receive for instruction at the United States Military Academy, at West Point, Mr. Manuel Agüero y Junqué, of Cuba, having considered the same, report thereon with a recommendation that it do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 499.

IMPORTATION OF ADULTERATED AND LOW-GRADE SEEDS.

APRIL 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. COVINGTON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 22340.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22340) to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes, report the bill back to the House with a recommendation that the bill do pass.

The object of this bill is to prohibit the admission into the United States of certain adulterated forage-crop seeds which are unfit for seeding purposes, but which are intended for seed. The bill is set forth in full at the end of this report.

This bill is the outgrowth of various bills and agitation in regard thereto concerning the importation of an interstate commerce in seeds. The bill reported, however, does not effect interstate commerce in seeds and does not affect any kind of seed except alfalfa, barley, blue grass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat.

The bill as now presented and favorably reported by your committee is believed to have the unanimous indorsement of the seed trade, of the official seed analysts of the various agricultural experiment stations, and generally of the producers as well as the consumers of seed. It also has the indorsement, to the extent that it goes, of the Department of Agriculture. So far as your committee has been able to ascertain, no one is now opposed to the passage of the bill. Its passage into a law will entail little, if any, additional expense upon the Government, but will be productive of great good in keeping out of this country the low-grade seeds which are now sent here from foreign lands, the Governments of which prohibit the home use of such seed.

We attach hereto, as a part of this report, extracts from former proceedings, as well as copies of different bills introduced, and letters and statements relating to them.

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EXTRACTS FROM HOUSE REPORT NO. 1278, FIRST SESSION, SIXTIETH CONGRESS, PRESENTED MARCH 20, 1908.

SEED ADULTERATION.

The frightful extent to which the adulteration of seeds has grown in our country is a menace to the interests of the farmer, the gardener, the horticulturist, and the honest seedsman. The United States has become the dumping ground for the poor seed of the world, which can be and is used by unscrupulous dealers for adulteration purposes.

* * * * * * *

THE LAW OF CANADA.

By the Canadian seed-control act, 1905, it is provided that no person shall sell or offer, expose, or have in his possession for sale, for the purpose of seeding, any seed of cereals, grasses, clovers, or forage plants unless they are free from any seeds of certain named weeds, and there are various other provisions of the same act prohibiting the adulteration or misbranding of seeds.

Section 7 of that act provides that "the provisions contained in this act shall not apply to—

"(*d*) Seed marked 'not absolutely clean' and held or sold 'for export only.'"

The Canadian act, therefore, authorizes the handling and selling of unclean seed which may be held or sold for export only, while prohibiting the domestic sale or handling of the same character of seed.

* * * * * * *

IMPORTED SEED.

The principal seeds which are imported to be used for purposes of adulteration are—

First. Yellow trefoil, used in adulterating clover and alfalfa seed;

Second. Canada bluegrass, used for adulterating Kentucky bluegrass; and

Third. Low-grade clover and alfalfa screenings.

For the fiscal year 1906 there were imported 61 lots of low-grade clover seed, amounting to 990,809 pounds. This would be enough seed to sow approximately 125,000 acres at the average rate of seeding. This seed is for the most part small-sized, low-grade screenings imported from Europe and not available for actual use except in the United States. A practical failure must be expected to the extent that seed of this quality is used either from not securing a stand on account of poor germination or from smothering with weeds introduced with the seed. Tests by the Department of Agriculture of this low-grade clover seed show that in one lot of 1,102 pounds only 7.47 per cent was live clover seed. In another lot of 10,995 pounds the live clover seed was 8.31 per cent. In another lot of 25,300 pounds the live clover seed was 12.26 per cent. In another lot of 35,347 pounds the live clover seed was 12.72 per cent. In another lot of 13,119 pounds the live clover seed was 15.18 per cent. In another lot of 15,024 pounds the live clover seed was 16.65 per cent.

Red-clover seed is worth about $17 a hundred pounds. In one of the imported lots tested the live red-clover seed (the only seed of value in it) cost at the rate of $60.16 per hundred pounds; in another lot, $56.56 per hundred pounds; in another lot, $47.95 per hundred pounds.

One lot of 3,374 pounds contained 43 different kinds of weed seed. Another lot of 10,787 pounds contained 56 different kinds of weed seed, as did also another lot of 22,000 pounds.

The average weight of 1,000 good plump red-clover seeds is 1½ grams or more. In more than one-half of the 61 lots of imported low-grade seed referred to the weight of 1,000 seeds is less than a gram. Of these 61 lots of imported seed, the live red-clover seed averaged only 43.1 per cent of the whole, and much of the seed which was alive was worthless for seeding purposes, as while it was alive it was of such small size and low vigor and so immature that it would not grow to plant size.

One of these imported lots contained 95,580 seeds of the black seeded plantain to the pound, and the total of weed seeds to the pound in that lot was 144,450. In one lot of 13,380 pounds there were 126,516 weed seeds to the pound. In another lot of 35,347 pounds there were 97,580 weed seeds to the pound.

The 990,809 pounds of low-grade clover seed imported for the fiscal year of 1906 contained an average of 51,597 weed seeds to the pound—13.71 per cent of the above importation consisted of broken seeds and dirt. The actual cost for the live clover seeds at the prices named in the importations was $20.89 per hundred pounds.

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During the fiscal year of 1906 there were analyzed 16 lots of low-grade imported alfalfa seed, amounting to 275,572 pounds. Of this, one lot containing 32,275 pounds contained live alfalfa seed to the extent of 8.17 per cent. Another lot of 33,022 pounds contained 6.99 per cent of live alfalfa seed. At the price at which the last lot was imported, the live alfalfa seed in the lot cost $37.55 per hundred pounds. This lot contained 20 different kinds of weed seeds.

DODDER.

Over 75 per cent of the low-grade clover and alfalfa seed imported in the fiscal year 1906 contained dodder seed.

Dodder is a parasitic plant deriving its food not from the soil, but from the host plant to which it attaches itself. In this respect it is different from ordinary weeds. It starts from seed in the ground and develops a slender thread-like stem which twines around the host plant, sending out from its stem suckers which enter the tissues of the host plant, upon which the dodder is subsequently dependent for its food supply and its mechanical support. The dodder, therefore, sucks the sap from the host plant. When the food stored in the seed is exhausted, the dodder plant disconnects itself from the seed in the ground; but having made close attachment to the host plant, the dodder grows rapidly and soon becomes a tangled mass, destroying the host plant both by taking its sap and by breaking it down from the weight of its luxuriant growth.

Dodder seed is not in its pure form used as a means of direct seed adulteration, but it is a most common ingredient in low-grade seeds of various kinds, and when such seed is used as an adulterant the dodder seed goes with it.

Dodder is becoming very prevalent throughout the country as a menace to both clover and alfalfa culture, and is everywhere attracting the attention and fear of farmers who are most careful in observation. While it may not be possible to obtain absolute freedom from dodder in some forage-crop seeds, the introduction of dodder seed in other seeds can be very much reduced. Dodder is especially dangerous as a pest of flax, clover, and alfalfa. Under the seed-control regulations which prevail in Europe, dodder seed is specially singled out as an impurity, and as a result much of the seed infested with dodder seed is sent to the United States instead of being used for planting in Europe.

The Department of Agriculture has published a special bulletin on the subject of Dodder in Relation to Farm Seed, known as Farmers' Bulletin 306. But it is even more important to prevent the planting of dodder seed in connection with flax and clover than it is to furnish information about it.

* * * * * * *

The following table shows the analyses made by the Department of Agriculture of 61 samples of low-grade red-clover seed imported during the fiscal year ending June, 1906:

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Analyses of 61 samples of low-grade red-clover seed imported during the year ended June 30, 1906.

No. of seed sample.	1 Red-clover seed.	2 Other seeds.	3 Dirt and broken seed.	4 Dodder present.[1]	5 Kinds of weed seeds.	6 Weight of 1,000 red-clover seeds.	7 Germination of red-clover seed.	8 Quantity imported.[2]	9 Price per 100 pounds at which seed was imported.	10 Live red-clover seed (seed that germinated) in sample.	11 Actual cost of 100 pounds of red-clover seed that germinated.
	Per cent.	*Per cent.*	*Per cent.*		*Number.*	*Milligrams.*	*Per cent.*	*Pounds.*		*Per cent.*	
2945	48.06	25.78	26.16	No	39	882	38	6,740	$5.20	18.26	$28.48
2946	66.1	13.16	20.74	Yes	27	900	91	5,027	7.60	60.15	12.63
2947	77.43	9.44	13.13	Yes	32	1,135	83	6,876	9.10	64.27	14.16
3101	72.5	25.73	1.77	No	10	1,594	96.5	3,750	11.00	69.96	15.72
3159	73.14	10.38	16.48	Yes	25	893	88.5	16,535	8.00	64.73	12.36
3222	73.8	7.88	18.32	Yes	24	810	89	13,380	7.20	65.68	10.96
3395	70.41	10.90	18.69	Yes	20	779	76.5	30,857	7.00	53.86	12.99
3400	75.78	9.35	14.87	Yes	28	895	80	32,706	7.75	60.62	12.78
3425	70.05	21.89	8.06	No	33	1,377	77.5	32,630	8.00	54.29	14.73
3432	74.39	15.02	10.59	Yes	50	951	75.5	22,000	8.00	56.16	14.24
3456	43.03	19.31	37.66	Yes	39	855	28.5	25,300	2.80	12.26	22.84
3457	46.24	19.09	34.67	Yes	32	818	27.5	35,347	6.10	12.72	47.95
3488	63.31	23.22	13.47	No	29	913	68	35,350	5.80	43.05	13.47
3506	69.81	12.25	17.94	Yes	23	847	72	32,893	7.50	50.26	14.92
3571	67.89	16.67	15.44	No	29	995	66.5	29,490	9.20	45.15	20.37
3587	67.55	13.50	18.95	Yes	45	898	60.5	7,015	7.10	40.87	17.37
3588	76.74	14.53	8.73	Yes	39	952	63.5	12,498	7.60	48.73	15.59
3591	70.6	12.59	16.81	Yes	30	839	21.5	13,119	3.50	15.18	16.27
3598	74.73	12.68	12.59	Yes	40	1,102	75.5	33,069	8.25	56.42	14.62
3647	64.84	11.69	23.47	Yes	32	885	68	32,562	7.70	44.09	17.46
3696	64.09	13.79	22.12	Yes	36	840	62.5	44,029	11.50	40.05	28.71
3721	72.55	20.67	6.78	No	19	1,143	75.5	32,523	7.60	54.77	13.88
3755	65.65	18.48	15.87	No	33	885	52.5	6,550	5.50	34.47	15.96
3810	65.52	19.23	15.25	Yes	23	977	48.5	15,588	6.40	31.78	20.14
3811	57.3	22.81	19.89	Yes	45	1,021	42	15,506	5.60	24.06	23.27
3816	64.58	10.27	25.15	Yes	31	886	60.5	32,116	7.62	39.07	19.56
3834	77.45	7.70	14.85	Yes	28	1,087	66	33,159	9.60	51.12	18.70
3906	61.34	15.51	23.15	Yes	45	846	53	32,468	7.50	32.51	23.07
3945	67.04	17.10	15.86	Yes	36	891	67	12,474	8.50	44.91	18.93
3946	83.54	6.60	9.86	Yes	21	995	74	30,427	11.20	61.82	18.12
3959	94.04	.95	5.01	Yes	12	1,357	44.5	1,576	9.50	41.85	22.70
3960	94.15	1.77	4.08	Yes	19	1,552	69	11,288	9.90	64.96	15.24
3962	97.15	.66	2.19	Yes	11	1,538	34	12,000	8.60	33.03	26.04
3963	96.07	1.66	2.27	Yes	14	1,585	70	6,393	8.00	67.25	11.90
3964	96.32	1.93	1.75	Yes	11	1,603	72	5,962	9.10	69.35	13.12
3965	93.54	.27	6.19	Yes	9	1,422	15	2,425	4.50	14.03	32.07
3967	95.04	1.20	3.76	Yes	17	1,404	48	7,937	7.60	45.62	16.66
3994	47.49	32.08	20.43	Yes	41	909	17.5	10,995	4.70	8.31	56.56
3990	83.07	10.32	6.61	No	17	1,252	72.5	750	12.00	60.22	19.93
4009	83.87	8.02	8.31	Yes	42	1,370	46.5	11,130	8.20	38.9	21.08
4010	64.04	17.07	18.89	Yes	41	835	26	15,024	5.80	16.65	34.83
4026	68.59	17.78	13.63	Yes	20	870	86.5	4,000	14.20	59.33	23.93
4029	94.23	2.59	3.18	No	11	1,582	65.5	10,318	8.80	61.72	14.25
4031	95.41	1.76	2.83	Yes	11	1,495	54.5	2,500	8.98	51.99	17.27
4032	93.82	3.91	2.27	No	14	1,732	43.5	6,303	6.80	40.81	16.66
4035	95.52	2.16	2.32	Yes	19	1,555	27.5	3,382	7.80	26.27	29.69
4038	95.63	1.12	3.25	Yes	17	1,397	53.5	2,372	7.70	51.16	15.05
4044	67.80	14.91	17.29	Yes	43	963	31.5	32,074	7.00	21.36	32.77
4051	98.29	.41	1.3	No	5	1,597	59.5	2,551	6.90	58.48	11.79
4053	93.55	.17	6.28	Yes	8	1,434	8	1,102	4.50	7.48	60.16
4067	78.61	8.82	12.57	No	15	1,164	50	453	4.00	39.30	10.18
4084	61.09	16.93	21.98	No	19	1,236	75.5	33,866	10.10	46.12	21.90
4097	64.77	16.41	18.82	Yes	50	951	46	10,787	7.00	29.79	23.50
4118	74.04	15.18	10.78	Yes	35	1,010	60.5	2,963	7.50	44.79	16.74
4163	76.62	12.36	11.02	No	26	1,165	75.5	30,000	8.10	57.84	14.00
4165	54.44	24.57	20.99	No	37	868	38	18,200	6.00	20.68	29.01
4179	61.56	15.58	22.86	Yes	48	926	55.5	22,046	6.12	34.16	17.93
4180	61.04	12.58	26.38	Yes	27	926	75.5	4,851	7.70	46.08	16.71
4181	58.02	17.13	24.85	Yes	46	933	54	22,046	6.12	31.34	19.54
4183	77.65	8.15	14.20	Yes	38	980	87.5	7,363	9.75	67.94	14.35
4225	72.79	16.88	10.33	Yes	43	1,010	29	6,178	6.00	21.11	28.42
Average.	74.06	12.17	13.83	.....	29.7	1,105.5	58.03	.....	7.61	43.16	20.39

[1] 75.41 per cent of samples contained dodder.
[2] Total quantity of low-grade red clover seed imported, 990,809 pounds.

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The following table shows analyses of 16 samples of low-grade alfalfa seed imported during the fiscal year of 1906:

Analyses of 16 samples of low-grade alfalfa seed imported during the fiscal year ended June 30, 1906.

No. of seed sample.	Alfalfa seed.	Other seeds.	Dirt and broken seed.	Dodder present.[1]	Kinds of weed seeds.	Weight of 10,000 alfalfa seeds.	Germination of alfalfa seed.	Quantity of seed imported.[2]	Price per 100 pounds at which seed was imported.	Live alfalfa seed (seed that germinated) in sample.	Actual cost of 100 pounds of alfalfa seed that germinated.
	Per cent.	*Per cent.*	*Per cent.*		*Number.*	*Milligrams.*	*Per cent.*	*Pounds.*		*Per cent.*	
2929	84.56	3.52	11.92	Yes	18	1,704	79.5	10,208	$9.50	67.22	$14.13
2941	96.18	1.28	2.54	No	1	2,166	46	12,106	8.10	44.24	18.30
2942	88.58	1.98	9.44	Yes	14	1,890	53	7,797	7.90	46.96	16.83
2996	89.42	3.68	6.9	No	10	1,787	56.5	16,475	9.25	50.52	18.31
3002	88.06	3.24	8.7	No	12	1,866	52.5	32,439	9.40	46.23	20.33
3003	87.8	3.54	8.66	No	12	1,748	45	15,923	9.90	39.5	25.06
3047	90.46	3.97	5.57	Yes	14	1,757	58	16,610	10.25	52.47	19.53
3068	94.38	2.59	3.03	Yes	9	1,834	50	14,475	8.50	47.19	18.01
3082	91.01	4.33	4.66	Yes	15	1,622	63.5	16,632	10.25	57.79	17.73
3158	90.8	4.68	4.52	Yes	18	1,328	9	33,275	2.00	8.17	22.22
3393	94.63	1.77	3.6	Yes	17	1,753	73.5	16,500	10.13	69.55	14.56
3751	87.4	2.1	10.5	Yes	20	1,529	8	33,022	2.63	6.99	37.55
4132	82.02	6.18	11.8	Yes	23	1,032	77	5,610	7.50	63.15	11.87
4135	72.54	14.13	13.33	Yes	22	1,065	50	11,396	6.00	36.27	16.54
4232	63.85	16.79	19.36	Yes	26	1,037	58.5	3,844	5.60	37.35	13.39
4267	81.31	4.38	14.31	Yes	21	1,164	43.5	29,261	5.70	35.37	16.12
Average	86.44	4.89	8.68	.....	15.75	1,580	51.47	.....	7.63	44.31	18.78

[1] 75 per cent of the samples contained dodder.
[2] Total quantity of low-grade alfalfa seed imported, 275,572 pounds.

The number of seed in a pound of red-clover seed varies considerably, the size being to a large extent an indication of quality. In the average seed grown in the United States there are about 300,000 seed to the pound. English-grown seed is somewhat larger and has about 220,000 seed to the pound. Chilean-grown seed is still larger and averages about only 190,000 seed to the pound. In the low-grade red clover, which consists largely of screenings, the number of seeds to the pound frequently runs up as high as 490,000. In this low-grade imported seed, as stated above, there are large quantities of weed seeds, and the following shows the number of weed seeds to the pound in various lots of red-clover seed imported during the fiscal year of 1906:

NUMBER OF WEED SEEDS TO THE POUND IN SAMPLES OF LOW-GRADE RED-CLOVER SEED IMPORTED DURING THE YEAR ENDED JUNE 30, 1906.

Sample No. 2945.—Black-seeded plantain, 95,580; lady's-thumb, 1,530; knotweed, 90; spurge, 1,440; mayweed, 450; catmint, 180; green foxtail, 4,320; yellow foxtail, 450; buckhorn, 1,890; bracted plantain, 540; chickweed, 270; curled dock, 1,260; bitter dock, 540; sorrel, 810; healall, 540; peppergrass, 360; wild carrot, 360; small crab-grass, 6,480; crab-grass, 5,670; slender paspalum, 1,350; pennyroyal, 2,700; stink-grass, 90; yellow trefoil, 540; five-finger, 180; barnyard grass, 90; spiny sida, 90; sedge, 90; three-seeded mercury, 270; vervain, 720; tumbling amaranth, 1,620; rough pigweed, 900; lamb's-quarters, 1,080; witch-grass, 7,470; spreading panicum, 990; prickly lettuce, 90; other weed seeds, 3,420.

Total weed seeds to the pound, 144,450.

Sample No. 2946.—Buckhorn, 16,200; clover dodder, 38,160; wild carrot, 5,256; healall, 4,608; low hop-clover, 648; plantain, 72; sorrel, 2,808; yellow trefoil, 144; wild chicory, 432; vervain, 432; field camomile, 360; mayweed, 72; woodrush, 72; mouse-ear chickweed, 72; lamb's-quarters, 72; hawkweed picris, 72; round-leaved toad-flax, 72; small-flowered crane's bill, 216; bird's-foot trefoil, 72; other weed seeds, 1,728.

Total weed seeds to the pound, 71,568.

Sample No. 3101.—Green foxtail, 96,135; witch grass, 1,020; plantain, 595; lamb's-quarters, 425; yellow trefoil, 595; small crab-grass, 255; lady's-thumb, 170; three-seeded mercury, 85; ragweed, 85; other weed seeds, 340.

Total weed seeds to the pound, 99,705.

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Sample No. 3159.—Buckhorn, 24,130; Chilean clover dodder, 14,250; sorrel, 3,910; wild carrot, 3,910; healall, 3,825; yellow trefoil, 850; bird's-foot trefoil, 425; lamb's-quarters, 340; wild chicory, 340; ox-tongue, 340; green foxtail, 170; mayweed, 170; field camomile, 170; hop-clover, 170; mouse-ear chickweed, 65; small crab-grass, 85; low hop-clover, 170; chickweed, 85; kidney vetch, 85; red pimpernel, 85; small-flowered crane's-bill, 85; saltbush, 85; other weed seeds, 595.

Total weed seeds to the pound, 54,360.

Sample No. 3222.—Buckhorn, 93,678; clover dodder, 15,132; healall, 6,084; wild carrot, 3,276; sorrel, 2,652; yellow trefoil, 1,716; black-seeded plantain, 546; lamb's-quarters, 390; curled dock, 390; spurry, 390; bird's-foot trefoil, 312; vervain, 312; hop-clover, 234; saltbush, 156; lesser starwort, 156; mayweed, 156; white vervain, 78; chickweed, 78; ox-eye daisy, 78; green foxtail, 78; blue field madder, 78; pepper-grass, 78; other weed seeds, 468.

Total weed seeds to the pound, 126,516.

Sample No. 3456.—Buckhorn, 36,982; wild carrot, 36,326; yellow trefoil, 2,050; wild chicory, 4,264; clover dodder, 4,592; field dodder, 656; vervain, 2,542; healall, 1,968; low hop-clover, 82; sorrel, 984; curled dock, 410; hawkweed picris, 820; ox-tongue, 656; field camomile, 656; lamb's-quarters, 574; red pimpernel, 492; green foxtail, 410; black-seeded plantain, 164; lesser starwort, 164; Canada thistle, 82; nipplewort, 82; cat's-ear, 82; knotweed, 82; barnyard grass, 82; small crab-grass, 82; other weed seeds, 2,296.

Total weed seeds to the pound, 97,580.

Sample No. 3457.—Buckhorn, 35,700; wild carrot, 32,725; chicory, 4,845; clover dodder, 4,760; healall, 3,230; yellow trefoil, 1,785; sorrel, 1,105; lamb's-quarters, 850; green foxtail, 425; red pimpernel, 425; dodder, 425; field camomile, 340; ox-tongue, 340; curled dock, 340; hawkweed picris, 255; knotweed, 255; cut-leaved crane's-bill, 170; nipplewort, 170; black-seeded plantain, 170; mayweed, 85; lesser starwort, 85. bracted plantain, 85; spiny sow thistle, 85; other weed seeds, 5,015.

Total weed seeds to the pound, 93,070.

Sample No. 3696.—Yellow trefoil, 2,542; clover dodder, 29,520; buckhorn, 12,218; wild carrot, 8,528; low hop-clover, 984; hop-clover, 410; healall, 5,330; sorrel, 7,626; curled dock, 164; lamb's-quarters, 2,132; vervain, 1,066; red pimpernel, 574; lesser starwort, 574; green foxtail, 574; mayweed, 246; field camomile, 246; wild chicory, 164; kidney vetch, 164; bird's-foot trefoil, 164; spurry, 164; barnyard grass, 82; small crab-grass, 82; blue field madder, 82; wood rush, 82; other weed seeds, 3,444.

Total weed seeds to the pound, 77,162.

Sample No. 3811.—Clover dodder, 18,700; buckhorn, 19,380; lamb's-quarters, 5,355; green foxtail, 4,080; sorrel, 3,315; wild carrot, 3,060; heal-all, 2,550; yellow trefoil, 1,360; saltbush, 1,190; wild chicory, 680; red pimpernel, 425; rabbit's-foot clover, 340; white campion, 170; oxtongue, 170; hawkweed picris, 85; early winter cress, 170; Canada thistle, 85; mayweed, 85; field camomile, 85; bitter dock, 85; curled dock, 85; lady's-thumb, 85; knotweed, 85; kidney vetch, 85; chickweed, 85; sweet clover, 85; black-seeded plantain, 85; mallow, 85; spurry, 85; sticktight, 85; blue field madder, 85; other weed seeds, 2,635.

Total weed seeds to the pound, 64,940.

AMOUNT OF SEED IMPORTED.

The amount of grass and forage-crop seed imported during the year ending December 31, 1906, as near as can be ascertained, is as follows:

Agrostis	62,615	Mixed grass seed	12,471
Alfalfa	2,988,900	Orchard grass	116,866
Ammophila	112	Paspalum dilitatum	1,800
Bermuda grass	24,676	Rape	1,602,816
Bluegrass, Canada	673,802	Rescue grass	400
Bluegrass, Kentucky	812	Wild rice	500
Clover, alsike	1,361,325	Rough-stalked meadow grass	8,181
Clover, crimson	1,790,304	Rye grass, English	580,263
Clover, red	7,932,055	Rye grass, Italian	162,736
Clover, sweet	2,320	Sainfoin	224
Clover, white	9,924	Sweet vernal grass	15,675
Crested dog's-tail	15,018	Timothy	103,213
Bromus inermis	38,653	Teosinte	600
Elymus	500	Wheat grass	1,500
Festuca	91,173	Wood meadow grass	12,563
Meadow foxtail	1,068	Vetch, hairy	23,107
Meadow oat grass	18,244	Vetch, spring	4,950
Millet, German	33,960	Yellow trefoil	93,196
Millet	140,022	Molinia	1,433

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EXTRACTS FROM HEARINGS BEFORE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, FEBRUARY, 1911.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Thursday, February 2, 1911.

The committee met at 10 o'clock a. m., Hon. James R. Mann (chairman) presiding.

The CHAIRMAN. The committee will be in order. We have before us House bill 20373 and House bill 29163—House bill 20373 to prohibit the importation into the United States of adulterated seed and seed unfit for planting, and House bill 29163 to regulate commerce among the States and with foreign nations, and to prevent the transportation of adulterated and misbranded seed and bulbs, and for other purposes. For the sake of convenience the two bills may be printed in the record.

"[H. R. 20373, Sixty-first Congress, second session.]

"A BILL To prohibit the importation into the United States of adulterated seed and seed unfit for planting.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass (awnless), buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat which are adulterated or unfit for seeding purposes within the meaning of this act is hereby prohibited, and the Secretary of Agriculture and the Secretary of the Treasury shall jointly or severally make such rules and regulations as will provide for the exclusion of such seeds from the United States: *Provided,* That such seeds may be delivered to the owner thereof under bond, to be recleaned, subject to such regulations as the Secretary of the Treasury may provide, and when recleaned to the standard of purity specified in sections two and three of this act they may be released to the owner thereof, but the screenings removed from such seeds must be disposed of in a manner to be prescribed hy the Secretary of Agriculture.

"SEC. 2. Seed shall be considered adulterated within the meaning of this act: First, when seed of red clover contains more than three per centum of seed of yellow trefoil or any other seed of similar appearance to and of lower market value than seed of red clover; second, when seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, or sweet clover, singly or combined; third, when any kind or variety of the seeds named in section one of this act contains over five per centum of seed of another kind or variety of lower market value and of similar appearance.

"SEC. 3. Seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover seed contains more than one seed of dodder to three thousand seeds of clover; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum by weight of seeds of noxious weeds."

* * * * * * *

STATEMENT OF MR. W. S. WOODRUFF, OF S. D. WOODRUFF & SONS, OF ORANGE, CONN., CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE AMERICAN SEED TRADE ASSOCIATION.

Mr. WOODRUFF. Mr. Chairman and gentlemen, first of all I desire to thank the committee for the courtesy of granting us this hearing, and of postponing the hearing, which you so kindly did for us, from about two weeks ago. This seed proposition has been given a great amount of thought since the matter was up before this committee two years ago, and I think I am stating the truth when I state that the seed trade are ready for a seed bill, provided this Congress, or any other Congress, deems it necessary that we have a bill; and are not only ready for it, but are ready to cooperate with your committee by giving you the advantage of the technical knowledge that the long years of experience of our various associations have accumulated. We have represented here four national organizations: First, the organization of the Wholesale Seedmen's League of the United States; the Wholesale Grass Seed Dealers' Association; the National Association of Seed Analysts; and the American Seed Trade Association. We have thought best to ask the two factions, if we may so call them, namely, the grass-seed faction and the flower-seed faction, which, from their very nature, are unlike in many respects, to be represented and be heard before your committee. Without further preliminary remarks I shall call upon Mr. Reynolds, of Crawfordsville, Ind., to open the discussion and to say what he pleases for the Grass Seed Association.

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STATEMENT OF MR. A. E. REYNOLDS, OF CRAWFORDSVILLE, IND., REPRESENTING THE WHOLESALE GRASS SEED ASSOCIATION OF THE UNITED STATES.

Mr. REYNOLDS. Mr. Chairman and gentlemen, I wish to say to you that the question of national control of various business industries of the country has been a vital question, and has been forced more and more on the public in the past few years. Ten years ago it would have been highly distasteful and an unheard-of proposition for a body of gentlemen such as you see here to appear, either obstructively or constructively, regarding legislation.

As has been stated by Mr. Woodruff, we have been led more and more to the way of thinking that legislation, not only if it is enacted, but that legislation should be enacted, controlling, or in some measure regulating, the seed industry of the country. I suppose it is a little unusual to come up and ask for something controlling our own business. But I would have you take into consideration that the Wholesale Grass Seed Association does not comprise everyone in the United States who handles grass seed. Therefore, if we were able, within ourselves, to control the industry which we represent, in so far as our own organization is concerned, we would still fall far short of being able to control absolutely the grass-seed business of the country.

Those of us who appear here this morning say for ourselves that our association, and the seed trade of the country in general, are in an industry that is represented by gentlemen who should have, first of all, accorded them the distinction, if you please, of being upright, honorable men, conducting a business worthy of its calling, and endeavoring honestly and earnestly to carry forward a business in an honest, upright manner. I believe that the investigation of the grass-seed business of the country will show it to be on as high a plane of honor, and as earnestly conducted, and as desirous of giving an honest administration of a great industry, as any other commercial business of the country.

We therefore court legislation of the kind and character under which the great seed industry of the country can be conducted in a way remunerative to the parties engaged in it, and at the same time to serve the public in as acceptable a manner as is possible to serve it. To that end we believe in protecting first the seed business in a way that will be conducive, honestly, to its promotion.

The great trouble we have had in the past is not being able in any way to control the importation of seeds as to quantity, quality, or condition. Therefore I wish first to confine my remarks to a consideration of H. R. 20373, and say to you that we have only suggested a few changes in this bill, and we have not altered in any particular measure the text of the bill. The copy that I hold in my hand I wish to have filed as a bill that would be wholly acceptable to the seed trade of the country as controlling the importations of seed from foreign countries.

The CHAIRMAN. The copy you have has the amendments that you would suggest?

Mr. REYNOLDS. It has the amendments, and I wish to file it at the proper time.

The CHAIRMAN. You may give that to the stenographer and it will be printed.

The bill referred to is as follows:

"[Suggested revision of H. R. 20373, Sixty-first Congress, second session.]

"A BILL To prohibit the importation into the United States of adulterated seed and seed unfit for planting.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the importation for seeding purposes into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass (awnless), buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, red top, rye, sorghum, timothy, vetch, and wheat which are adulterated or unfit for seeding purposes within the meaning of this act is hereby prohibited, and the Secretary of Agriculture and the Secretary of the Treasury shall jointly or severally make such rules and regulations as will provide for the exclusion of such seeds from the United States: *Provided*, That such seeds may be delivered to the owner thereof under bond, to be recleaned subject to such regulations as the Secretary of the Treasury may provide, and when recleaned to the standard of purity specified in sections two and three of this act they may be released to the owner thereof, but the screenings removed from such seeds must be disposed of in a manner to be prescribed by the Secretary of Agriculture.

"SEC. 2. That seed shall be considered adulterated within the meaning of this act: First, when seed of red clover contains more than three per centum of seed of yellow trefoil or any other seed of similar appearance to and of lower market value than seed of red clover; second, when seed of alfalfa contains more than three per centum

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of seed of yellow trefoil, burr clover, or sweet clover, singly or combined; third, when any kind or variety of the seeds named in section one of this act contains over five per centum of seed of another kind or variety of lower market value and of similar appearance: *Provided*, That the provisions of this paragraph shall not apply to mixtures of white and alsike clover, red and alsike clover, alsike clover and timothy.

"SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum, by weight, of seeds of weeds."

Mr. TOWNSEND. You say that would be satisfactory to all of the seedmen in the country?

Mr. REYNOLDS. I am speaking only, Mr. Townsend, for the grass-seed people. There are other people here to speak for the garden-seed people.

The CHAIRMAN. Of course that bill does not affect garden seeds.

Mr. REYNOLDS. No; this particular bill is on importations of grass seed.

Mr. TOWNSEND. And all the grass-seed men are agreeable to that proposition?

Mr. REYNOLDS. We are agreeable to this bill, and we have only slightly amended it. I want you to remember we have not assumed to frame a bill as a substitute.

The CHAIRMAN. It is fair to state that you prepared the bill in the first instance. I introduced it at the request of some of the gentlemen connected with that association.

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STATEMENT OF MR. GEORGE S. GREEN, OF CHICAGO, ILL., REPRESENTING THE WHOLESALE GRASS SEED DEALERS' ASSOCIATION.

Mr. WOODRUFF. I would like to call next upon Mr. George S. Green, of Chicago.

The CHAIRMAN. How much time will you want?

Mr. GREEN. That depends altogether. I think I could get through in 15 or 20 minutes with a general statement of what I want to say, and submit the suggested revision of your bill for future consideration. If we have to go into the detailed changes suggested in this bill, and I have to answer questions, it would probably take me a longer time.

The CHAIRMAN. I would suggest in that respect that you leave with us, for printing in the record, a copy of the bill with the changes that you have suggested written in as a part of the bill, and the committee will be able to compare all those bills.

Mr. GREEN. If it would be in order, I think it might be well if each member of the committee had a copy of this.

Mr. TOWNSEND. Have you copies for each one of them?

Mr. GREEN. Yes; we have printed copies.

Mr. RICHARDSON. Mr. Mann has two bills in here, one by request, 20373, and 29163. To which are you addressing yourself?

Mr. GREEN. I will say just a few words in regard to the first bill, 20373, first.

Mr. RICHARDSON. That is introduced by request.

Mr. GREEN. Yes; I will have just a few words to say in regard to that. I simply want to put myself on record as approving heartily of what Mr. Reynolds has said. As I said, this bill, regarding importations, has the full approval of, and is heartily indorsed by, the grass-seed trade of the country. We hope it will be passed, and as promptly as possible. We believe it will correct certain crying evils, and that those evils should be corrected. We heartily approve of that bill as slightly amended.

* * * * * * *

I am going to take the liberty of reading from a letter that I wrote Mr. Mann last winter in regard to this point, because I think it states my position more clearly than I could otherwise do:

FEBRUARY 12, 1910.

Hon. JAMES R. MANN, *Washington, D. C.*

DEAR MR. MANN: I am in receipt of your letter of February 5, for which accept thanks. I shall be glad to have printed copies of the suggested outline for bill regarding importation of seeds, when it is printed.

The meeting of committees representing the leading associations of seedsmen in the United States was held in Chicago February 9, as planned. * * *

There are other more or less important points in your proposed law with regard to which the wording would seem to need change which we shall be glad to take up with you in conference should the necessity arise and opportunity be afforded. We appreciate the evident fair-minded spirit which has led you to eliminate so many of the burdensome features of your former bill, and we believe you will, upon reflection,

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concede the force of our arguments stated above, and will not hastily introduce or urge a law unless you believe it to be in all respects suitable for the requirements of the situation. In the meantime our committee resolved to indorse my suggestion for a bill to prevent the importation of adulterated seeds unfit for planting, and to pledge you our support to help to secure the prompt passage of a bill covering this ground in case you should consent to introduce and urge for passage such bill.

* * * * * * *

I understand you are one of the busiest men in Congress, and this is a busy time of year with all seedsmen. It seems hardly probable that it will be possible to work out during the present session of Congress a bill governing interstate commerce in seeds which will be really helpful to agriculture and at the same time not unduly burdensome to dealers. Such being the case, would it not be wise to do promptly the thing which we are all agreed should be done, viz, stop the importation of low-grade and worthless grass and clover seeds, leaving for future attention the far more difficult task of framing a more comprehensive bill regulating interstate trade in seeds?

Hoping to have your views with regard to this matter at your earliest convenience, and hoping that no further definite action will be taken without ample opportunity for further discussion of the subject, I am,

Yours, sincerely, GEO. S. GREEN,
Chairman of the Committee on Legislation of the American Seed Trade Association.

Will any opportunity be given to submit in writing some detailed objections to minor, and yet not unimportant, points with regard to this bill?

The CHAIRMAN. I have a number of communications from seedsmen suggesting objections or amendments to the proposition, and without objection any gentleman may send us any communication on the subject, which we will insert as a part of the hearing.

Mr. GREEN. In order to save time I will pass by some things I might say with regard to other points in reference to the law, and finish what I have to say as briefly as possible.

The CHAIRMAN. I might say, in connection with that, that written arguments will probably be just as effective as an oral statement, because there is no likelihood that the committee will be able to take these bills up for final consideration at this session of Congress, unless it should be the import bill. I do not know what the chances would be for that.

Mr. GREEN. If that can be hurried through at this session, I am sure seedsmen will be pleased.

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STATEMENT OF MR. CHARLES D. WOODS, DIRECTOR OF THE MAINE AGRICULTURAL EXPERIMENT STATION, OF ORONO, ME., REPRESENTING THE ASSOCIATION OF SEED ANALYSTS.

Mr. WOODRUFF. We next have a gentleman whom we have brought here. Some one criticized me for attempting to use the term "we have brought here"—we have invited here. He is here because we invited him, I suppose, not that we thought he was representing the seed trade at all, but this gentleman has had a world of experience in seed testing, as a scientific man, and with the oldest seed law there is in the United States, I believe some 14 years. That gentleman is Dr. C. D. Woods, of Orono, Me., director of the Maine Experiment Station and also the president of the National Association of Seed Analysts. A year ago, December 19, 1909, we had a meeting in Boston at which were present some representatives of 15 different State experiment stations, I think, together with a large delegation of seed men, and this matter of seed viability and testing was thrashed out at that time, and Dr. Wood can tell you his ideas as to whether legislation affecting grass seeds can be equitably drawn; also affecting garden and flower seeds. He can tell you as to uniformities in testing seeds by the various experiment stations.

Mr. WOODS. The Association of Seed Analysts is composed of men who are officially charged with the carrying out of laws, with the professors who are in the various institutions, such as State colleges and the Department of Agriculture, who are interested in the promotion of pure and improved seed; that is, it is an officially controlled body, coupled with scientific men who are not charged by law with its enforcement. It is not the function of this association to dictate legislation, or even to do very much suggesting along the lines of legislation; but inasmuch as seed legislation in America is comparatively new, they have considered at varying times the needs of a law. Rela-

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tive to House bill 20373, I wish to submit a copy of the resolutions which were passed at the last meeting of this association to make part of the minutes of this hearing, at a convention held in this city in November last, in which they are thoroughly in accord with the provision of this bill.

* * * * * * *

RESOLUTION ADOPTED AT THE THIRD ANNUAL MEETING OF THE ASSOCIATION OF OFFICIAL SEED ANALYSTS, HELD NOVEMBER 14–15, 1910, AT WASHINGTON, D. C.

Whereas Canada has a strict seed-control law which prohibits the sale in that country of low-grade seed, but specifically provides for its export; and

Whereas France and the Argentine Republic forbid the introduction into these countries of clover and alfalfa seed containing seeds of dodder; and

Whereas the conditions in Germany, Austria, Switzerland, Belgium, Holland, Denmark, Norway, and Sweden are such that large quantities of low-grade and worthless seed, for which there is no ready local market, are collected in the large seed-handling centers for export; and whenever the price of clover and alfalfa seed in this country is high large amounts of such low-grade European seed are imported for the purpose of mixing with other seed in order to create low grades for sale in American markets; and

Whereas we believe the introduction into this country of this class of seeds is a positive menace to our agriculture: Therefore be it

Resolved, That the Association of Official Seed Analysts favors the immediate passage of such legislation as may be necessary to prevent the introduction into the United States of forage-plant seeds containing such large proportions of weed seeds or dead seeds or other matter that they are of little or no value for agricultural purposes.

* * * * * * *

PAPER SUBMITTED BY MR. ALBERT M'CULLOUGH IN REGARD TO HOUSE BILL 20373.

We appear before the committee to-day in behalf of the wholesale grass-seed dealers, not as opposing legislation, but asking, as we have done heretofore, for the enactment of a bill that will regulate and correct, as far as possible, the evils that exist in our particular branch of the seed business.

We have before us for consideration two bills, one of which we have already gone on record, so also the other seed organizations, as having indorsed the principle thereof, and we believe that if this bill (H. R. 20373), with the proper additions, is reported favorably by the committee and becomes a law it will prove the first step to control the evil which has been the primary cause of the majority of the complaints that have been put on record so far, and therefore we trust that your committee will to-day give this bill special consideration, together with the proposed additions thereto, and report favorably thereon.

We all know that in times of short crops, which we are sorry to say have existed several times within the last 15 years, there is a great temptation to go over to Europe and bring in low grades of seed in order to meet the popular demand for cheaper articles in order that the farmer may reduce his running expenses. That such a demand exists no one who is at all familiar with the situation of the trade will attempt to deny, and our friends on the other side of the water are never backward in availing themselves of any and all opportunities of this kind. The results, of course, have been anything but beneficial to the farming community at large. Vast quantities of seed have been scattered broadcast over the country. Some sections where it has been impossible at times to sell anything but a cheap grade of seed have become so inoculated that it is a question whether now it would be possible for them to ever get the farms in a worse condition. We can not, of course, attempt to do anything in the way of legislation that will control the past or have anything to do with it, but we can profit by the past experience and stop this kind of business as far as the future is concerned.

We have every reason to believe that this bill will answer the purpose and prove the first step in the right direction. We can not conceive to-day how it would be possible to enact a law that could be properly enforced which attempts to cover the entire ground of trafficking in seeds. We do not believe it is possible to carry out the provisions of the bill that attempts to cover the entire field. Science has not progressed sufficiently as yet to attempt anything of this kind. If there is a demand for anything of this kind it will, in our judgment, have to be taken up by special and separate bills.

We now ask and demand protection along the lines of this bill, 20373. We can not rest under the charge made that the seedsmen of the United States are in the habit

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of disseminating adulterated and misbranded seeds. In no business in the world does there exist a higher standard of morals and business integrity than there exists among the seedsmen, and no reputable seedsman to-day will attempt to offer an excuse for any one who knowingly will handle or will disseminate adulterated or misbranded seeds. Rather than offer an excuse for such a party, we are here to-day ready to ask protection from such, as being even more vitally interested than the farmers whom we are attempting to protect under the provisions of the law. Our reputation and business integrity is assailed, and we rise as a body in protest, that the action of any such individual be taken or considered, even for an instant, as the action of the seed trade in general.

We ask first the enactment of this bill, regulating the importation into this country of the foreign seeds, believing that it is the primary cause for trouble and the first step of protection from the evil, and one which the officials of our Government can readily see is properly carried out in every provision. The Department of Agriculture is thoroughly equipped to do this under its present organization.

THE ILLINOIS SEED CO.,
Chicago, February 3, 1910.

Hon. JAMES R. MANN, *Washington, D. C.*

DEAR SIR: I am in receipt of your favor of January 24 and I thank you for kind attention.

Soon after the receipt of your letter of January 19 I sent out a number of letters to seedsmen asking for suggestions and criticisms upon the new draft of your pure-seed bill. Replies thus far received make it seem necessary to have a meeting of our committee on seed legislation, and other interested parties, before we can formulate anything which will be representative of the opinion of the seed trade.

Accordingly I have called a meeting for February 9 in Chicago for consideration of this subject, and soon after the date of this meeting I hope to communicate with you, giving you the results of our discussion. I trust this will not be too late to serve your purpose and that no definite action will be taken until after this date. Meantime I, personally, want to express my appreciation of the evident intention shown in this new draft of your law to eliminate many of the features of your former bill, which would have been burdensome to seed merchants. Would be glad to know whether you still consider it necessary to have your bill apply to seed exported or intended for export. My own judgment is that the reference to export should be cut out of the second and third paragraphs of section 4, if not from the whole bill. Of course, I would not undertake to defend the action of a dealer who would, knowingly, ship adulterated seed for export, but since we have native seed containing dodder, which is commercially valuable in the markets of the world, I see no reason why we should prohibit its export and thus, perhaps, cause it to be resown within the States which produced it.

As you doubtless know, many States are considering seed laws, and the whole subject of State seed legislation is being carefully considered. A joint committee meeting was held in Boston the latter part of December, where seed representatives of the Society of Official Seed Analysts and of the seed-trade associations of the country were in conference together with regard to a proposed uniform State law. Progress was made, and it is probable that laws will be passed in various States during this year. Under the existing circumstances might it not be well to postpone Federal legislation with regard to interstate commerce in seeds until some of these States law have been tried out more fully?

Meantime the most essential requirement of the situation seems to be to preven the importation of adulterated seeds and seeds unfit for planting. May I call to your attention the inclosed suggestion for a bill, which though perhaps not in strictly legal phraseology, yet I think covers the essential points which will to a large extent protect the soil of our country against the refuse of foreign seed markets which has been so often marketed here?

I am writing you this without responsibility to my associates in the seed trade, hoping to obtain from you an expression of opinion in advance of our meeting as to whether some such measure would not be acceptable to you for the present in lieu of a more comprehensive measure covering the entire field of interstate trade in seeds. May I have some expression of opinion from you in regard to this at your earliest convenience?

Thanking you in advance for your courtesy in this matter, I am,

Yours, sincerely.

GEO. S. GREEN.

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MAINE AGRICULTURAL EXPERIMENT STATION,
Orono, Me., February 9, 1910.

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

DEAR SIR: The official seed analysts have been much impressed with the need in the various States of a uniform law controlling the sale of seeds. They are, of course, also greatly interested in the bill which you introduced in the last session of Congress.

At the time of the Boston meeting of the Association for the Advancement of Science a long session was held with a special committee appointed by the American Seed Trade Association on legislation, as well as their executive committee. As a result of this conference quite a number of points were agreed upon relative to a law which should consider purity alone. Because of the very conflicting results in germination that were obtained by different methods in different laboratories it seemed unwise, until a further study of methods has been made, to introduce anything relative to the vitality of seeds into a law.

In connection with this meeting we became firmly convinced that the seed trade would favor a law regulating the importation of seeds. I am not at all certain that they are yet ready for a law to control interstate trade in seeds. It occurred to some of us who are interested in this matter from the official standpoint that in national legislation it might not be possible to do something, as was done in the case of food and drugs. You will recall that we had a law regulating the importation of foods and drugs long before it was possible to get enacted the law regulating the interstate trade in these commodities.

We are firmly convinced that a Federal law prohibiting the importation of low-grade seeds would be of great service to the agriculture of the United States. We also think that a good part of the seed trade is in favor of seed legislation, and if it was properly proposed there would be little difficulty in carrying such a bill through.

It occurred to us that such legislation could at this time be confined to a few points such as the following:

The seed to be included to be all clover, grass, and forage-plant seed intended for seeding purposes. It might be desirable to prohibit the importation of seed which contained dodder and which contained weed seeds or dead seeds which rendered it unfit for seeding purposes.

After talking the matter over with some of the Washington people I found that the difficulty of administering such legislation would be very slight, as on the passage of such a law dealers would stop the importing of the seeds prohibited by the law and the desired effect might be obtained with very little trouble or expense from the standpoint of inspection.

I have not conferred with the honorable Secretary of Agriculture relative to such a measure, but I feel pretty confident from some of his subordinates that this might be handled without any additional appropriation. The seed laboratory is well equipped for doing all of the work that would need to be done from the analytical standpoint, and I presume that through cooperation with the Treasury Department it could be handled without special inspectors to be stationed at the various ports.

I trust you will pardon my intruding myself upon you in this connection, but knowing your interest in seed legislation and hearing the rumor that the bill along similar lines as the one proposed to the last Congress was to be presented again in the present Congress, I am taking the liberty of suggesting the introduction of a bill far less wide in its scope, which might be used as an entering wedge to successful further congressional action.

Yours, truly, CHAS. D. WOODS, *Director.*

MAINE AGRICULTURAL EXPERIMENT STATION,
Orono, Me., February 16, 1910.

Hon. J. R. MANN,
House of Representatives, Washington, D. C.

DEAR SIR: Since writing you, I have received a copy of House bill 20373, which you introduced, to prohibit the importation into the United States of adulterated seed and seed unfit for planting. Will you kindly allow me to make one or two suggestions relative to the measure?

Section 2 lays a large amount of stress upon adultered seeds, which is very proper, only that the amount of actually adulterated seeds shipped into the United States is very small.

Section 3, it seems to me, should be somewhat widened in its scope. It is as important to have alfalfa and flaxseed free from dodder as clover seed. It is also important, as I suggested in my other letter, to prohibit the importation of dead seeds. There

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have been many cases where practically pure seed has been imported, which was all dead. This was, of course, absolutely worthless and is used for mixing purposes. I would suggest inserting after the word "clover," in line 20, the words "alfalfa or flax," and after the word "clover," in line 21, "alfalfa or flax," and after the word "contains," in line 23, the words "less than 75 per cent of live seeds or," so that the section as amended shall read:

"SEC. 3. Seed shall be considered unfit for seeding purposes within the meaning of this act, first, when any kind or variety of clover, alfalfa, or flax seed contains more than one seed of dodder to three thousand seeds of clover, alfalfa, or flax; second, when any kind or variety of the seeds named in section one of this act contains less than seventy-five per centum of live seed or more than three per centum by weight of seeds of noxious weeds."

Yours, truly, CHAS. D. WOODS, *Director*.

THE ILLINOIS SEED CO.,
Chicago, November 30, 1910.

Hon. JAMES R. MANN, *Washington, D. C.*

DEAR MR. MANN: The writer called at your office recently, hoping to see you before you returned to Washington, but found that you had already left Chicago.

I am no longer chairman of the American Seed Trade Association committee on seed legislation, but am still in the seed business and naturally interested in the question of seed legislation. Do you know whether anything is likely to be done in regard to national seed legislation in the near future? Personally I should be very glad indeed to see a bill passed promptly which would prevent importation of low-grade or adulterated seed—a bill something along the line of the one which you introduced by request last March. Prof. C. D. Woods, of Orono, Me., is chairman of the seed legislation committee of the Official Seed Analysts Association. His committee favors the prompt passage of such a bill, and if you could be interested to push this bill, I believe it would be a good thing for American agriculture. Prices of alfalfa seed are very high this year and red clover is also comparatively high in this country, and there is more probability of the importation of low-grade seeds this year than there was last year.

Seedsmen who want to handle good grades of seed would be glad to have the importation of foreign screenings prohibited by law, and I feel sure that the Department of Agriculture and the various State officials would welcome such legislation. May I ask whether there is any probability of your trying to further this bill regarding importations? If so, I should be glad to submit some suggestions for slight changes in it most of which are favorably regarded by representatives of the Bureau of Plant Industry at Washington.

Have you given any further thought to the question of regulation of interstate commerce in seeds? I trust we shall have an opportunity to discuss this matter with you before any definite action is taken.

Yours, sincerely, GEO. S. GREEN.

BILLS IN SIXTY-SECOND CONGRESS.

[H. R. 8657, Sixty-second Congress, first session.]

A BILL To prohibit the importation into the United States of adulterated seed and seed unfit for planting.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass (awnless), buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kaffir corn, meadow fescue, flax, millet, oats, orchard grass, rape, red top, rye, sorghum, timothy, and wheat which are adulterated or unfit for seeding purposes within the meaning of this act is hereby prohibited, and the Secretary of Agriculture and the Secretary of the Treasury shall jointly or severally make such rules and regulations as will provide for the exclusion of such seeds from the United States: *Provided*, That such seeds may be delivered to the owner thereof under bond, to be recleaned subject to such regulations as the Secretary of the Treasury may provide, and when recleaned to the standard of purity specified in sections two and three of this act they may be released to the owner thereof, but the screenings removed from such seeds must be disposed of in a manner to be prescribed by the Secretary of Agriculture.

SEC. 2. That seed shall be considered adulterated within the meaning of this act: First, when seed of red clover contains more than three per centum of seed of yellow

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trefoil or any other seed of similar appearance to and of lower market value than seed of red clover; second, when seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, or sweet clover, singly or combined; third, when any kind or variety of the seeds named in section one of this act contains over five per centum of seed of another kind or variety of lower market value and of similar appearance.

SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover seed contains more than one seed of dodder to three thousand seeds of clover; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum by weight of seeds of noxious weeds.

THE ILLINOIS SEED CO.,
Chicago, January 10, 1911.

Mr. JAMES R. MANN,
Chairman Committee on Interstate and Foreign Commerce,
Washington, D. C.

DEAR SIR: I thank you for your message of even date advising me of the change in the date of hearing on seed bills from January 17 to February 2. I shall be glad to be present at the hearing.

I herewith submit for your consideration a list of changes in H. R. 20373, which I believe will make that bill more acceptable to the Department of Agriculture in that it would shut out seeds of exceptionally low vitality, such as might be used for adulteration purposes. These changes have received the approval of a number of prominent seedsmen in leading markets and I hope you will find them acceptable from your point of view.

Personally I think some provision should be made in this bill for the admission of cereals intended for food purposes, without regard to the restrictions of the bill; but since this is not important to seedsmen, and some people think such a provision would leave room for the admission of cereals for seeding under false pretenses, I only suggest the point and do not urge it.

Yours, sincerely, GEO. S. GREEN.

Make the following changes in H. R. 20373, introduced by Mr. Mann:

Section 1, line 8, after "timothy," insert "vetch."

Section 2, add the following:

"*Provided*, That the provisions of this paragraph shall not apply to mixtures of white and alsike clover, red and alsike clover, alsike clover and timothy."

Section 3, revise to read as follows:

"Seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum by weight of seeds of weeds; third, if it is of such low vitality as to seriously impair its agricultural value as compared with good merchantable seed of the same variety: *Provided*, That no lot or parcel of seed shall be delayed or restricted of entry unless the appearance of the sample is such as to indicate that it might properly be refused entry under the provisions of this paragraph."

[H. R. 14483, Sixty-second Congress, second session.]

A BILL To regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorgum, timothy, vetch, and wheat, or mixtures of seeds containing any of such seeds as one of the principal component parts, which are adulterated or unfit for seeding purposes under the terms of this act is hereby prohibited; and the Secretary of the Treasury and the Secretary of Agriculture shall jointly or severally make such rules and regulations as will prevent the importation of such seeds into the United States: *Provided, however*, That such seed may be delivered to the owner or

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consignee thereof under bond, to be recleaned in accordance with and subject to such regulations as the Secretary of the Treasury may prescribe, and when cleaned to the standard of purity specified in this act for admission into the United States, such seed may be released to the owner or consignee thereof after the screenings and other refuse removed from such seed shall have been disposed of in a manner prescribed by the Secretary of Agriculture: *Provided further*, That this act shall not apply to the importation of barley, buckwheat, field corn, flax, oats, rye, or wheat not intended for seeding purposes.

SEC. 2. That seed shall be considered adulterated, within the meaning of this act—

First. When seed of red clover contains more than three per centum of seed of yellow trefoil, or any other seed of similar appearance to and of lower market value than seed of red clover.

Second. When seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, and sweet clover, singly or combined.

Third. When any kind or variety of the seeds, or any mixture described in section one of this act, contains more than five per centum of seed of another kind or variety of lower market value and of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, red and alsike clover, or alsike clover and timothy, shall not be deemed an adulteration under this section.

SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act—

First. When any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa seed, respectively.

Second. When any kind or variety of the seeds or any mixture described in section one of this act contains more than three per centum by weight of seeds of weeds.

[H. R. 18495, Sixty-second Congress, second session.]

A BILL To regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat, or mixtures of seeds containing any of such seeds as one of the principal component parts, which are adulterated or unfit for seeding purposes under the terms of this act is hereby prohibited; and the Secretary of the Treasury and the Secretary of Agriculture shall jointly or severally make such rules and regulations as will prevent the importation of such seeds into the United States: *Provided, however*, That such seed may be delivered to the owner or consignee thereof under bond, to be recleaned in accordance with and subject to such regulations as the Secretary of the Treasury may prescribe, and when cleaned to the standard of purity specified in this act for admission into the United States such seed may be released to the owner or consignee thereof after the screenings and other refuse removed from such seed shall have been disposed of in a manner prescribed by the Secretary of Agriculture: *Provided further*, That this act shall not apply to the importation of barley, buckwheat, field corn, flax, oats, rye, or wheat not intended for seeding purposes.

SEC. 2. That seed shall be considered adulterated within the meaning of this act—

First. When seed of red clover contains more than three per centum of seed of yellow trefoil, or any other seed of similar appearance to and of lower market value than seed of red clover.

Second. When seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, and sweet clover, singly or combined.

Third. When any kind or variety of the seeds, or any mixture described in section one of this act, contains more than five per centum of seed of another kind or variety of lower market value and of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, red and alsike clover, or alsike clover and timothy, shall not be deemed an adulteration under this section.

SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act—

First. When any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa seed, respectively.

Second. When any kind or variety of the seeds or any mixture described in section one of this act contains more than three per centum by weight of seeds of weeds.

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THE ALBERT DICKINSON CO.,
Chicago, February 12, 1012.

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

DEAR MR. MANN: Referring to your letter of January 13, the writer has been very negligent in replying to you regarding H. R. 14483. There has been such a marked difference of opinion on the question of vetches that it has caused a great deal of delay.

Both associations wish me to write you stating that the bill is very acceptable and that there are only two or three suggestions which they would make, namely:

Insert on page 2, lines 10 to 12, the words "Kafir corn" and "sorghum."

Insert on page 2, line 16, line 20, and line 24, the words "by weight," after the words "per centum," so as to clarify the method of making the test.

Add to the end of the bill that "The bill shall go into effect six months after its passage."

It seems to be the opinion of the majority of the trade to leave vetches out altogether, as you have done in H. R. 18495.

If the bill comes up for hearing and there should be any changes suggested other than these by the committee, we should be very glad if you would advise us and give us an opportunity to be present before final decision is reached.

Thanking you again for your many courtesies, and with kindest regards,

Yours, truly,

CHAS. D. BOYLES,
Chairman Committee on Seed Legislation,
American Seed Trade Association;
Vice President W. G. S. D. A.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, February 13, 1912.

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

SIR: I am in receipt of a copy of House bill 18495, entitled "To regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes." The only difference between this and House bill 14483, introduced by you in December of 1911, appears to be the omission of vetch from the later bill. Regarding this omission I would like to call your attention to the following data regarding hairy-vetch seed.

During the six months ending October 31, 1910, 339,442 pounds of hairy-vetch seed was imported into the United States, as shown by samples submitted to the seed laboratory by collectors of customs. This seed showed a purity of 78.3 per cent and a germination of 60.3 per cent, or an actual value of 47.2 per cent; that is, of this seed 47.2 per cent was hairy-vetch seed capable of germinating. During the six months ending June 1, 1911, a slightly larger amount of hairy vetch seed was imported which showed an actual value of 84.3 per cent. The hairy-vetch seed which was imported during the six months prior to October 31, 1910, was of an unusually low grade, being badly mixed with the seeds of other vetches, and the hairy-vetch seed itself was of low vitality.

During the calendar year 1911, 113 lots of hairy-vetch seed purchased on the open market in connection with our work were found to be adulterated. Of the vetch in these samples an average of 69.6 per cent was hairy vetch, the balance of 30.4 per cent being other vetches, mostly forms of spring vetch. The hairy-vetch seed in thes lots germinated 80.3 per cent, showing an actual value of 55.9 per cent; that is, the 113 lots of hairy-vetch seed purchased on the open market contained an average of 55.9 per cent of live hairy-vetch seed.

It is evident that the quality of hairy-vetch seed imported into the United States is low in comparison with the quality of other forage-plant seeds, and that it is especially worthy of attention under any proposed legislation to regulate the importation of seeds into the United States.

Respectfully, JAMES WILSON, *Secretary.*

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[H. R. 22340, Sixty-second Congress, second session.]

A BILL To regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after six months after the passage of this act the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, awnless brome grass, buckwheat, clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat, or mixtures of seeds containing any of such seeds as one of the principal component parts, which are adulterated or unfit for seeding purposes under the terms of this act, is hereby prohibited; and the Secretary of the Treasury and the Secretary of Agriculture shall, jointly or severally, make such rules and regulations as will prevent the importation of such seeds into the United States: *Provided, however*, That such seed may be delivered to the owner or consignee thereof under bond, to be reclaimed in accordance with and subject to such regulations as the Secretary of the Treasury may prescribe, and when cleaned to the standard of purity specified in this act for admission into the United States such seed may be released to the owner or consignee thereof after the screenings and other refuse removed from such seed shall have been disposed of in a manner prescribed by the Secretary of Agriculture: *Provided further*, That this act shall not apply to the importation of barley, buckwheat, field corn, Kafir corn, sorghum, flax, oats, rye, or wheat not intended for seeding purposes.

SEC. 2. That seed shall be considered adulterated within the meaning of this act—

First. When seed of red clover contains more than three per centum by weight of seed of yellow trefoil, or any other seed of similar appearance to and of lower market value than seed of red clover.

Second. When seed of alfalfa contains more than three per centum by weight of seed of yellow trefoil, burr clover and sweet clover, singly or combined.

Third. When any kind or variety of the seeds, or any mixture described in section one of this act, contains more than five per centum by weight of seed of another kind or variety of lower market value and of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, red and alsike clover, or alsike clover and timothy, shall not be deemed an adulteration under this section.

SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act—

First. When any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa seed, respectively.

Second. When any kind or variety of the seeds or any mixture described in section one of this act contains more that three per centum by weight of seeds of weeds.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. } REPORT No. 502.

BRIDGE ACROSS SABINE-NECHES CANAL, PORT ARTHUR, TEX.

APRIL 5, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SMITH of Texas, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 21960.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 21960) to authorize the Port Arthur Pleasure Pier Co. to construct a bridge across the Sabine-Neches Canal, in front of the town of Port Arthur, having considered the same, report thereon with amendment, and as so amended recommend that it pass.

The bill as amended has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

Amend the bill as follows:

On page 2, line 2, after the word "six" insert the words "*Provided*, That the said Port Arthur Pleasure Pier Company is also authorized to cross and occupy with the aforesaid bridge the land owned by the United States adjacent to and along said canal under such terms and conditions as the Secretary of War may deem equitable and fair to the public."

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 1, 1912.

THE SECRETARY OF WAR.

SIR: 1. I have the honor to return herewith a letter dated the 19th ultimo, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. R. 21960 (62d Cong., 2d sess.), "A bill to authorize the Port Arthur Pleasure Pier Co. to construct a bridge across the Sabine-Neches Canal, in front of the town of Port Arthur."

2. The Sabine-Neches Canal is an artificial waterway dug through the lands of the United States along the shore of the Sabine Lake, and connects the mouths of the Sabine and Neches Rivers with the mouth of Taylors Bayou. The Port Arthur Pleasure Club, a local organization having for its object the building of a pleasure pier and amusement

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resort in Sabine Lake, in May, 1911, made application to the War Department for the privilege of constructing and maintaining a bridge across the said canal to connect with its pleasure pier in the lake. As this project involved the permanent occupation and use by private interests of lands belonging to the United States, the War Department was without legal authority to sanction it. Being a matter of considerable local importance, however, the department decided to grant the privilege of occupying this property temporarily and of building a temporary bridge on the express understanding "that such occupation shall cease and such bridge structure shall be wholly removed unless the authority of Congress for a permanent occupation and maintenance of a permanent bridge shall be obtained by the applicant within six months from the beginning of the next regular session in December, 1911."

3. The bill under consideration is understood to be designed to meet the foregoing condition, and it is further understood that it is the desire of the proponents of the measure to secure the consent of Congress to the occupation of the Government property as well as to the construction of the bridge. If this assumption be true, the bill should be amended as indicated thereon in red, and as thus amended I know of no objection, so far as navigation interests are concerned, to its favorable consideration by Congress.

Very respectfully,

W. H. BIXBY,
Chief of Engineers, United States Army.

[First indorsement.]

WAR DEPARTMENT, *April 2, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the accompanying report of the Chief of Engineers, United States Army, dated 1st instant, and to copy of amended bill referred to.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 503.

GRANT OF LAND FOR SCHOOL PURPOSES, POWELL, WYO.

APRIL 5, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MONDELL, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 21221.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 21221) making a grant of lands for school purposes in block No. 31, town site of Powell, Shoshone reclamation project, Wyoming, present the following report:

The town site of Powell, in Park County, Wyo., is a Government town site on the Shoshone reclamation project. In accordance with provisions of the law, the block referred to was reserved for public purposes and designated "school block." School district No. 2, of Park County, covers the town of Powell and adjacent territory. The school district has been occupying this block for school purposes, having small temporary buildings thereon. The school district now desires to erect larger and more permanent school buildings, and therefore seeks the title to the tract.

This tract would, under the law, be deeded to the town upon its organization as a municipality; but it is believed that this particular reservation should belong to the school district. The committee is therefore of the opinion that the bill should pass, and so recommends.

A letter of the Secretary of the Interior is appended hereto.

DEPARTMENT OF THE INTERIOR,
Washington, April 2, 1912.

Hon. JOE T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: I am in receipt of your request for report upon H. R. 21221, which proposes to authorize and direct the Secretary of the Interior to issue patent for block 31, town site of Powell, in the Shoshone reclamation project, Wyoming, to school district No. 2, Park County. Under the provisions of the act of April 16, 1906 (34 Stat., 116), under

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which the town site of Powell was established, the Secretary of the Interior is authorized to make appropriate reservations within the town for public purposes, such reservations to be improved and maintained by the town authorities, and upon the organization of the towns as municipal corporations such reserved tracts are required to be conveyed to the municipal corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes. Block 31 was reserved under said act.

The department is not advised as to the particular reasons for this measure, but knows of no reason why same may not be granted to the school district if Congress shall see fit so to do.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 504.

PRIMARY NOMINATING ELECTION FOR PRESIDENT AND VICE PRESIDENT.

APRIL 5, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LOBECK, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21768.]

The Committee on the District of Columbia, to whom was referred the bill H. R. 21768, report the same back to the House with the recommendation that it do pass with the following amendments:

Page 1, line 6, after the word "election," insert the following:

Except in the year nineteen hundred and twelve, when said primary election shall be held on the fourth Tuesday in May.

Page 5, line 6, strike out the words "second" and "April" and insert in place thereof dashes.

Page 5, insert after the blank following line 8, after the word "herein," the following:

Provided, That in the year nineteen hundred and twelve said petition shall be filed at least five days prior to such primary election.

Page 8, add at the end of line 10 the following:

Provided, That in the year nineteen hundred and twelve the said commissioners shall perform the duties provided for in this section and the following section as soon as possible after the passage of this act.

Page 10, add after the word "act," in line 9, the following:

In the year nineteen hundred and twelve said registration shall take place as soon after the passage of this act as provision can be made therefor, and any time thereafter up to within ten days of said primary election.

Page 10, line 11, add at the end of said line the following:

In nineteen hundred and twelve, as soon as possible after the passage of this act, and up to within ten days of said primary election, and thereafter.

Page 13, line 21, insert at the end of said line the following:

Provided, That in the year nineteen hundred and twelve, the said registration books shall be closed at noon, ten days before said primary election.

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Page 15, line 4, add at the end of said line the following:

Provided, That in the year nineteen hundred and twelve the commissioners shall make said appointments as soon as possible after the passage of this act.

Page 16, strike out the word "April" and insert in lieu thereof a dash wherever the same occurs in said blank notification following line 15.

Page 17, line 19, strike out the word "April" and insert in lieu thereof a dash.

Page 18, line 21, add at the end thereof the following:

Provided, That in the year nineteen hundred and twelve said publication shall be made as soon as possible after the filing of said nomination papers.

Page 21, line 3, insert after the word "primary" the following:

But in nineteen hundred and twelve as soon as possible after the passage of this act.

Page 22, line 12, insert after the word "third" the following:

In nineteen hundred and twelve as soon as possible after the passage of this act, and in years thereafter.

Page 34, line 18, strike out the word "April" and insert in lieu thereof a dash.

Page 41, line 24, strike out the word "April" and insert a dash.

Page 42, line 8, strike out the word "April" and insert a dash in lieu thereof.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 505.

TO REVIVE RIGHT OF ACTION UNDER CAPTURED AND ABANDONED PROPERTY ACTS.

APRIL 6, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BYRNES of South Carolina, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 16820.]

The facts out of which this bill for relief arises will be found correctly stated in House Report No. 1075, first session Sixtieth Congress, a copy being hereto appended and made a part of this report.

Your committee recommend the passage of the bill.

[House Report No. 1075, Sixtieth Congress, first session.]

The Committee on War Claims have considered the bill (H. R. 16732) to give the Court of Claims jurisdiction of claims for captured and abandoned property which was sold and the proceeds thereof placed in the Treasury of the United States, and submits the following report and recommends that said bill do pass:

By the act of March 12, 1863, known as the captured and abandoned property act, and acts amendatory thereof, the Secretary of the Treasury was authorized to appoint special agents to collect captured and abandoned property in the States then in insurrection, the proceeds thereof to be paid into the Treasury of the United States. The act provided that the property to be collected under it "shall not include any kind or description which has been used, or which has been intended to be used, for waging or carrying on war against the United States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies, or munitions of war."

Nine districts were established, and an agent appointed for each. A large amount of property in the States in insurrection was seized and the proceeds, amounting to over $30,000,000, reported to the Secretary of the Treasury. The money was treated as a trust fund under the control of the Secretary. Under joint resolution approved March 30, 1868, it was provided that all moneys derived from the sale of captured and abandoned property "which have not already been actually covered into the Treasury shall immediately be paid into the Treasury of the United States." The balance covered into the Treasury under this resolution was $20,971,790.96.

The third section of the act of March 12, 1863, provided as follows:

"Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, *and that he has never given any aid or comfort to the present rebellion*, to receive the residue of such proceeds, after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of such property, and any other lawful expenses attending the disposition thereof." (12 Stat. L., 820.)

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Under this provision a considerable number of claims were preferred to the Court of Claims and judgments recovered.

The following is believed to be a substantially correct statement of the payments that have been made from the amount covered into the Treasury under the said resolution of March 30, 1868:

On judgments under act of Mar. 12, 1863	$9,852,956.95
On judgments against Treasury agents	65,276.79
Disbursed for expenses under joint resolution of Mar. 30, 1868	242,140.34
Paid on special acts of relief	451,125.38
Paid by Secretary of Treasury under act of May 18, 1872	195,896.21
On judgment Court of Claims, Duffy, Report C. C., 24275	15,270.00
Under private act, 25 Stat., p. 1310	32,669.20
Under private act to Briggs, paid Mar. 24, 1894	88,104.21
Total	10,943,439.08

Deducting the above amount from the amount covered into the Treasury under the resolution of March 30, 1868, it will be seen that the sum now in the Treasury, and undisposed of, is $10,028,351.88.

The sole purpose of this bill is to extend the limitation upon the jurisdiction of the Court of Claims for a period of two years to entertain suits to recover the proceeds of the property of claimants where it can be established that such proceeds were actually covered into the Treasury of the United States under the act of March 12, 1863, and the acts amendatory thereof, and at the same time to safeguard every right and proper interest of the Government. This money does not belong to the Government. Proper legislation should be enacted with a view to distributing same to its owners.

Many questions arose under the act of March 12, 1863, such as, "What constituted proof of loyalty?" "When was the rebellion suppressed?" and "When did the two years expire within which suit could be commenced?" All of which were vigorously contested, and in which the court ruled strictly and rigidly against the claimants, rendering appeals to the Supreme Court necessary, and by which the owners of the property were delayed or deterred from preferring their claims under the act.

In December, 1869, the Supreme Court of the United States decided, in Anderson *v.* The United States (9 Wall., 56), that the rebellion was suppressed on the 20th of August, 1866, the date of President Johnson's proclamation of pardon and amnesty, with restoration of civil and political rights, and the limitation of the right to commence suit took effect or expired on the 20th of August, 1868. And it thus appears that the period in which the claimants could bring suits to recover the net proceeds of their property had expired more than one year prior to the decision fixing the date of the close of the war was announced and when it was too late for the claimants to derive any benefit from the decision.

It was not till 1871 that the Supreme Court gave full consideration to this act of March 12, 1863. In December of that year, in the case of Klein *v.* The United States (13 Wall., 128), the court decided—

(1) That it was not the intention of Congress by the enactment of that statute that the title to property seized under it should be divested from the loyal owners.

(2) That the proceeds of the property should go into the Treasury without change of ownership.

(3) That the same intention prevailed in regard to the property of owners who, though then hostile, might subsequently become loyal.

(4) That it was for the Government itself to determine whether those proceeds should be restored to the owner or not.

(5) That the President's proclamation of pardon and amnesty, with restoration of rights of property, and particularly that of July 4, 1868, *was a decision on the part of the Government which decided affirmatively the right of the owners of such property to the proceeds thereof in the Treasury, and the restoration of the proceeds became the absolute right of the persons pardoned.*

(6) And that "the Government constituted itself the trustee for those who by that act were declared entitled to the proceeds of captured and abandoned property, *and for those whom it should thereafter recognize as entitled.*"

And in its opinion the court uses this language:

"That it was not the intention of Congress that the title to these proceeds should be divested absolutely out of the original owners of the property seems clear upon a comparison of different parts of the act.

"We have already seen that those articles which became by the simple fact of capture the property of the captor, as ordnance, munitions of war, and the like, or in which third parties acquired rights which might be made absolute by decree, as ships and

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other vessels captured as prize, were expressly excepted from the operation of the act, and it is reasonable to infer that it was the purpose of Congress that the proceeds of the property for which the special provision of the act was made should go into the Treasury without change of ownership. Certainly such was the intention in respect to the property of loyal men. That the same intention prevailed in regard to the property of owners who, *though then hostile, might subsequently become loyal* appears probable from the circumstances that no provision is anywhere made for confiscation of it, while there is no trace in the statute book of intention to divest ownership of private property not excepted from the effect of this act otherwise than by proceedings for confiscation.

"It is thus seen that, except as to property used in actual hostilities, as mentioned in the first section of the act of March 12, 1863, no titles were divested in the insurgent States unless in pursuance of a judgment rendered after due legal proceedings. The Government recognized to the fullest extent the humane maxims of the modern law of nations, which exempt private property of noncombatant enemies from capture as booty of war. Even the law of confiscation was sparingly applied. The cases were few indeed in which the property of any not engaged in actual hostilities was subjected to seizure and sale.

"We conclude, therefore, that the title to the proceeds of the property which came to the possession of the Government by capture or abandonment, with the exceptions already noticed, was in no case divested from the original owner. It was for the Government itself to determine whether these proceeds should be restored to the owner or not. *The promise of the restoration of all rights of property decided that question affirmatively as to all persons who availed themselves of the proffered pardon.* * * *

"*The restoration of the proceeds became the absolute right of the persons pardoned* on application within two years from the close of the war. It was, in fact, promised for an equivalent. 'Pardon and restoration of political rights' were 'in return' for the oath and its fulfillment."

And then the court adds this strong language:

"To refuse it would be a breach of faith not less cruel and astounding than to abandon the freed people whom the Executive had promised to maintain in their freedom."

And in the prior case of the United States *v.* Padelford (9 Wall., 531) the court held that under the proclamation of pardon issued by President Lincoln, dated December 8, 1863, and the act of March 12, 1863, the Government is a trustee, holding the proceeds of the petitioner's property for his benefit, and having been fully reimbursed for all expenses incurred in that character loses nothing by the judgment which simply awards to the petitioner what is his own.

This decision in the Klein case settled the important questions in relation to the owners of captured and abandoned property and their rights under the act of March 12, 1863, and subsequent statutes relating to that subject, and it left nothing for Congress to do but provide a tribunal to which claimants might resort to establish their absolute right, in the language of the Supreme Court, to their share of the fund derived from the sale of such property.

In June, 1873, the case of Haycraft *v.* The United States was commenced in the Court of Claims to recover the net proceeds of certain property of the claimant. The suit was brought more than two years after the suppression of the rebellion, upon the theory that, as the Government held those proceeds in trust, as decided in the Klein case, it was liable outside of the act of March 12, 1863, upon an implied promise to pay to the claimant his portion of the fund; but the Court of Claims decided that the provision in that act limiting the right of the claimant to two years in which to prefer his claim was a limitation upon its jurisidiction, and thereupon it dismissed the petition. In January, 1875, this decision was affirmed by the Supreme Court, which held that the question was one of jurisdiction and not of limitation, and that, Congress having legislated upon the subject, the Court of Claims did not possess jurisdiction to entertain suits of this character under an implied contract to refund to claimants the net proceeds of their property in the Treasury. (Haycraft *v.* The United States, 22 Wall., 81.)

While the Haycraft case was pending in the Court of Claims, and before its decision by the Supreme Court, a large number of suits were commenced in the former court upon the theory on which the Haycraft case was based, viz, that the Government was liable to the claimants for the net proceeds of their property, under an implied contract, and these cases were all continued upon the dockets of the court till the decision of the Supreme Court to which we have referred, when they were all dismissed for want of jurisdiction.

Here, then, was the difficulty which existed—*parties having rights which they were unable to enforce, for the reason that there was no tribunal to which to resort for their enforcement.* It requires no argument to prove that a right may exist where there is no remedy

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for its enforcement, and this was, and is to-day, the precise predicament of all persons claiming an interest in the captured and abandoned property fund. While the power of the Court of Claims in the premises had ceased to exist, the rights of the claimants had survived, and neither the court nor the claimants, in order to enable each to act, required anything more than this: *The one the privilege to sue and the other the right to entertain and determine such suits.*

To remedy the wrong which existed in this respect, and in order to make effective the decisions of the Supreme Court to which reference has been made, Congress enacted section 1059 of the Revised Statutes, giving the Court of Claims jurisdiction of four classes of claims. The fourth clause of said section reads as follows:

"Fourth. Of all claims for the proceeds of captured or abandoned property, as provided by the act of March 12, 1863, chapter 120, entitled 'An Act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' or by the act of July 2, 1864, chapter 225, being an act in addition thereto: *Provided*, That the remedy given in cases of seizure under the said acts, by preferring claim in the Court of Claims, shall be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property, in virtue or under color of said acts, from suit at common law, or any other mode of redress whatever, before any court other than the Court of Claims."

And Congress provided for the payment of any judgment the court might render in favor of claimants under said fourth clause by section 3689 of the Revised Statutes, which, under the head of "Permanent annual appropriations," among other things, provides as follows:

"For the return of proceeds from the sale of captured and abandoned property in insurrectionary districts to the owners thereof, who may, to the satisfaction of the Court of Claims, prove their right to and ownership of said property."

These provisions of the Revised Statutes construed together provided a complete and adequate remedy for the claimants under the act of March 12, 1863, and subsequent statutes relating to the subject. The statutes declare this was the law on the 1st of December, 1873, though they were not approved by the President till June 22, 1874, and were not published till in 1875. These provisions of the statutes were in force, though not published, when the Haycraft case, above cited, was decided by the Supreme Court, and it can hardly be doubted that the decision in that case would have been different if the court had been aware of the existence of the two clauses in sections 1059 and 3689 of the Revised Statutes.

To every unprejudiced mind the language of the fourth clause of section 1059 is clear and unambiguous, and requires no construction to arrive at the intention of the National Legislature. It could have had but one object, and that was to confer upon the Court of Claims a jurisdiction which had once existed and which Congress well knew had expired by limitation. While the provision confers no new rights upon those claiming the fund derived from the sale of their property, but, on the contrary, restricts those rights by making the jurisdiction exclusive, it provides a tribunal before which they can go to enforce existing rights, and that tribunal one specially provided for adjudicating claims against the Government. Acting upon the assumption that the Government can not be sued without its consent, the legal effect of the clause is to give that consent, with the proviso that the claimants shall be confined in the prosecution of their claims to the provisions of the acts of March 12, 1863, and July 2, 1864—that is to say, that they should only recover the net proceeds of the sale of their property after deducting all costs and charges. And this conclusion is strengthened when section 3689 is construed in connection with section 1059.

The act of March 12, 1863, provided for the payment of all judgments rendered under its provisions, and if by the fourth clause of section 1059 it was only intended to continue the jurisdiction of the Court of Claims as to suits then pending before it, then no additional legislation was necessary to provide for the payment of any judgments rendered by the court in favor of the claimants. Besides, the limitation of two years in the act of March 12, 1863, operated upon the claimants rather than upon the court. It gave them the two years in which to prefer their claims to the proceeds of their property, and the act nowhere provided that the jurisdiction of the court should terminate in two years, whether the cases then pending were disposed of or not. But when Congress came to confer a new jurisdiction upon the court, without limitation as to time in which suits might be commenced, in order to make the remedy effective it was necessary to make provision for the payment of any judgments obtained by the claimants, and this Congress did by the enactment of section 3689 of the Revised Statutes.

The Court of Claims, however, adhering to its habit of ruling rigidly against claimants in that court, took a different view of sections 1059 and 3689, and in the case of Mary A. Wade, administratrix, and B. M. Martel, syndic, held that Congress did

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not intend by the above sections to repeal the two years' limitations in the act of March 12, 1863, and that these sections would not admit of such a construction, thus placing Congress in the ridiculous attitude of conferring jurisdiction upon the court and in the same clause limiting that jurisdiction to a period of time which had expired five years previously. This decision is based upon the ground "that the object of the revision of the statutes was not to change existing law, but to revise, simplify, arrange, and consolidate all statutes of the United States, general and permanent in their nature, which shall be in force at the time the commissioners should make the final report of their doings," and that the commissioners, "instead of reenacting the full language, for conciseness and condensation merely referred to the act and provided that the court should have jurisdiction of all claims for the proceeds of captured or abandoned property, as provided in the act of March 12, 1863."

Without stopping to criticize further this decision of the Court of Claims, it is sufficient to say that it completely nullifies the fourth clause of section 1059 of the Revised Statutes and defeats the will of the lawmaking power as expressed by that provision of the law. So long as that decision stands, even were there no other obstacles in the way, no suits can be maintained in the Court of Claims for the recovery of any portion of the captured and abandoned property fund, and the doors of that court, as well as all other legal tribunals, are closed against the claimants.

This is the condition and state of the law bearing upon this subject at this time as construed and defined by the courts, and it seems apparent that if this captured and abandoned property fund is ever to be distributed to its owners some additional legislation is necessary to that end. If the title of the owners of the property seized and sold under the captured and abandoned property acts has never been divested, if the Government holds the net proceeds of the property thus sold without any legal title thereto and as trustee for the owners, and if the President's proclamation of pardon and amnesty, including restoration to civil and political right, was a decision on the part of the Government which decided affirmatively the right of all owners of the property to the proceeds thereof in the Treasury, as the highest judicial tribunal of the Nation has decided, then in equity and good conscience it ought not to retain the money, and the honor and dignity of the Nation demand that some provision should be made by which the claimants of the fund may be enabled to enforce their rights thereto. For more than 30 years the Government has had the use of this money.

For more than 40 years the claimants have been appealing to Congress for relief, and if Congress in the discharge of more pressing duties has neglected this appeal, or if the remedy it provided has proved inefficacious, the stronger the reason for some action in this direction at the present time. The claimants are fast passing away, leaving as an inheritance to their children the prospect of litigation with their Government; and the witnesses upon whom the claimants must depend to establish their rights are being scattered and lost sight of, and to delay further is simply to rob and deprive these parties of their rights, some of whom are widows and orphans, while others are colored, or men of small means.

That Congress has from time to time felt the necessity for making some provision for the disposition of this fund is evident from the fact that at nearly every session special acts have been enacted for the benefit of claimants of this fund, thus doing justice to some at the expense of others; and it seems to your committee that common justice demands that a general law should be enacted by which all claimants to the fund may be relegated to some tribunal where they can establish their rights according to legal methods and each receive that portion of the fund to which he shows himself entitled.

Time and again favorable reports have been made by one House or the other upon bills having in view the same purpose as the bill now under consideration. In the Fifty-second Congress, first session, the Judiciary Committee of this House made such report on H. R. 455 (Rept. No. 1377).

In the Fifty-third Congress, second session, the Judiciary Committee upon a number of bills of like character adopted a report of the same committee made in the preceding Congress.

The same in the Fifty-fourth Congress, second session (H. Rept. No. 2568, from the Committee on War Claims, on H. R. 7618).

The same in the Fifty-fifth Congress, third session (S. Rept. No. 1634).

The same in the Fifty-seventh Congress, first session (S. Rept. No. 1292).

The same in the Fifty-eighth Congress, second session (S. Rept. No. 1861).

The same in the Fifty-ninth Congress, first session (S. Rept. No. 3290).

The same in the Fifty-ninth Congress, second session (H. Rept. No. 7540 from the Committee on War Claims, on H. R. 25400).

Your committee report back the bill and recommend its passage.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 506.

CARRYING CONCEALED WEAPONS IN THE DISTRICT OF COLUMBIA.

APRIL 6, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 14094.]

The Committee on the District of Columbia, to whom was referred H. R. 14094, report the same back to the House with the recommendation that it do pass, with amendments.

Page 1, line 3, strike out "or persons."

Page 1, line 4, insert between the words "concealed" and "about" the words "upon or."

Same page, same line, strike out the word "their" and insert in lieu thereof the word "his."

Page 1, line 5, strike out the words "or to carry openly."

Same page, same line, strike out "dirk knife" and insert in lieu thereof "clasp knife."

At the end of line 5, page 1, insert "razor."

Line 7, page 1, after the word "knuckle," insert ", or other deadly weapon."

Same line, strike out "or persons."

Line 8, after the word "concealed," insert "upon or."

Same line, strike out "the" and insert in lieu thereof "his."

At end of line 8 and at line 9 strike out "or carrying the same openly," and insert in lieu thereof the word "while."

Line 10, insert semicolon after the word "felony." Same line, insert a comma after the word "and." Same line, insert a comma after the word "thereof."

Page 2, line 2, insert a period after "years." Same line, strike out "*Provided*, That." Same line, use a capital P in the word "prosecutions."

After the word "Columbia," line 4, insert a period. Same line, strike out "*And provided further*."

Strike out all of lines 5 and 6, page 2, except the word "police" at end of line 6, and spell that word with a capital P.

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Page 2, line 7, insert the word "legal" before the word "prisoners." Same line, strike out "officials of the." At line 8, after the word "States" insert "marshals and their deputies." After the word "States," strike out all in said line 8, as well as all of line 9 and all of line 10 to and including the word "duty" and insert in lieu thereof "marshals and their deputies while actually on official duty."

Strike out all of section 2.

Add to the bill the following:

Any knife having a blade longer than three inches shall be deemed to be a deadly weapon.

So much of any act as empowers anybody or any court to authorize anyone to carry a concealed deadly weapon.

SEC. 2. This act shall take effect and be in force from and after its passage.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 507.

JURISDICTION OF THE POLICE COURT, DISTRICT OF COLUMBIA.

APRIL 6, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany S. 5271.]

The Committee on the District of Columbia, to whom was referred S. 5271, report the same back to the House with the recommendation that it do pass.

A letter written by Attorney General Wickersham, herewith submitted, fully explains why the bill should pass.

JUNE 21, 1910.

Hon. CLARENCE D. CLARK,
Chairman Committee on the Judiciary, United States Senate.

SIR: I have the honor to transmit, with request that it be enacted into law as soon as possible, a draft of a bill conferring upon the police court of the District of Columbia jurisdiction in cases of affrays, keeping bawdy or disorderly houses, and threats to do bodily harm.

In a recent case the Court of Appeals of the District of Columbia held that the Supreme Court of the District of Columbia, and not the police court, as had been assumed, had jurisdiction of the offense of keeping a disorderly house. The same ruling, I understand, would apply to affrays and threats to do bodily harm.

The United States attorney advises me that the offenses covered by the proposed bill are numerous; that the condition of the criminal docket of the Supreme Court of the District of Columbia is congested, and that in order to insure accused persons a speedy trial and prevent their incarceration for long periods before their cases can be heard it is exceedingly desirable that the police court shall have concurrent jurisdiction in such cases.

A copy of this draft has also been transmitted to the chairman of the Committee on the Judiciary, House of Representatives.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 508.

RELIEF OF THE ADJUTANT GENERAL OF THE ARMY FROM THE DUTIES OF HIS OFFICE.

APRIL 8, 1912.—Ordered to be printed.

Mr. HAY, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. Doc. 619.]

The Committee on Military Affairs, to which was referred certain papers relating to the relief of Maj. Gen. Frederick C. Ainsworth, The Adjutant General of the Army, from the duties of his office, and also the letter, House Document No. 619, of the Secretary of War, transmitting the said papers, have carefully considered the letter and papers and make the following report.

The letter of the Secretary of War, dated March 12, 1912, is as follows:

[House Document No. 619, Sixty-second Congress, second session.]

WAR DEPARTMENT,
Washington, March 12, 1912.

SIR: In response to House resolution 415, of February 23, 1912, requesting the Secretary of War to furnish copies of all records on file in the War Department bearing on the extracts from the communications of The Adjutant General of the Army, quoted in the order of February 14, 1912, relieving him from duty, I have the honor to say that I am directed by the President to transmit to your honorable House these copies, as being public documents on the files of the War Department, the disclosure of which will not, in his opinion, be detrimental to the public interests.

I am, however, directed by the President to say that these papers relate to a matter of military discipline and executive action which, by the Constitution, is confided exclusively to the President as Commander in Chief of the Army, and that their transmittal is not to be construed as a recognition of the authority or jurisdiction of the House or of any of its committees to require of the Chief Executive a statement of the reasons of his official action in such matters or a disclosure of the evidence upon which such official action is based.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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It will be observed that this letter denies the right of the House of Representatives to call for the papers above referred to, on the ground that they "relate to a matter of military discipline and executive action which, by the Constitution, is confided exclusively to the President as Commander in Chief of the Army." It will also be noted that the Secretary of War says that he is directed by the President to assert the principle above quoted.

A careful examination of the Constitution has failed to disclose any authority vested in the President which would justify him in withholding from the Congress, or either House thereof, information of a public nature regarding his acts as Commander in Chief of the Army, pertaining to the discipline of the Army or to any officer or man thereof. Certainly, in time of peace, the acts of the President with reference to the discipline of the Army are a matter which Congress has the right to inquire about, and to demand public papers with reference thereto. In this case the papers called for were public and official papers on file in the War Department, and certainly subject to such an inquiry. The committee calls the attention of the House to the attitude of the Secretary of War toward resolutions of inquiry. If there were any good and valid reasons why these papers should have been withheld from this House, those reasons should have been given in a different way and by the President himself. The Secretary of War, in the opinion of your committee, has a very erroneous idea as to what his relation is to the Congress of the United States. His office is not a constitutional one. He derives no power from the Executive. He is the creature of the Congress of the United States, and as such is amenable to it. He has no power which the Congress does not confer. The letter of the Secretary of War does not even say that he has laid the matter before the President, and that the President authorized him to make the claim therein set forth. If the matter had been called to the attention of the President, and he thought that the Congress was invading his prerogative, then he, and not the Secretary of War, was the proper person to assert his claim.

In considering the questions raised by the papers referred to your committee, including the question of what congressional action, if any, should be taken upon them, the committee does not feel authorized, nor, indeed, is it necessary to go beyond the papers themselves, the Congressional Record, and other public sources of information. In making this report the committee has therefore acted strictly within these limits.

An examination of these papers shows that under date of February 14, 1912, the Secretary of War addressed a letter to Maj. Gen. F. C. Ainsworth, The Adjutant General of the Army, charging him with insubordination and other improper official conduct, quoting in said letter extracts from various official and personal communications in support of that charge and relieving him from discharging the duties of his office and directing him to await further orders in this city.

From accounts in the public press it appears that this letter was delivered to The Adjutant General at sometime during the day of February 15, 1912, and on the same day, about or near the same time, a copy of said letter was read on the floor of the House of Representatives, while the Army appropriation bill was under consideration, and was printed in the Congressional Record of that day.

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On February 22, 1912, the House of Representatives, by resolution No. 415, directed the Secretary of War to transmit to the House full copies of all papers containing, or having any bearing on, the extracts quoted in the letter of the Secretary of War, February 14, 1912. In response to this resolution the Secretary of War, on March 12, 1912, transmitted to the Speaker of the House of Representatives copies of a large number of documents. These papers and the accompanying letter of the Secretary of War were referred to this committee on March 13, 1912. Upon an examination of these papers it has been found that many of them are not pertinent, or are of no importance, but those of them which are pertinent are embraced in, or appended to, this report.

The Secretary of War in his letter of February 14, 1912, addressed to The Adjutant General of the Army, uses language more intemperate and less justifiable than any which your committee has been able to find in these papers, or which has been quoted by the Secretary of War. The Secretary charges Gen. Ainsworth with impunging the fairness and intelligence of the Secretary of War; with criticizing and questioning the military capacity, experience, intelligence, fairmindedness, honor, and good faith of officers of the General Staff and the War College; with insubordination and impropriety of official conduct; with charging, by innuendo, the Chief of Staff with improper motives; with habitual rudeness and ill temper; with intolerance of subordination and readiness to impugn the motives or intelligence of associates; and with making official communications the occasion for contemptuous comments and aspersions upon fellow officers; and for insolence to superiors.

In order to support these accusations and to give color to these grave charges against an officer of the Army who had rendered long and distinguished service to his country, the Secretary of War, in his letter of February 14, 1912, quotes certain extracts from official communications by The Adjutant General, but even a careful reading of those extracts, without reference to their context, does not in any wise warrant or justify any of the grave accusations in support of which the extracts were adduced by the Secretary of War; and a careful examination of the full context of the papers sent to this committee in response to resolution No. 415, and from which these extracts were taken, makes it plain not only that The Adjutant General was blameless in the matters to which those papers relate, but that great injustice has been done Gen. Ainsworth, because of the unwarranted assertions, misstatements, and suppression of facts contained in the widely published letter of the Secretary of War of February 14, 1912. The Secretary of War, in his letter of February 14, alleges as the principal ground of his action in suspending Gen. Ainsworth the contents of a memorandum addressed by Gen. Ainsworth to the Chief of Staff, dated February 3, 1912. It appears from these papers that this memorandum was prepared in compliance with instructions conveyed by the Chief of Staff to Gen. Ainsworth in a document of which the following is a copy:

[Memorandum of The Adjutant General.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
Washington, December 15, 1911.

The Secretary of War directs that you submit for the consideration of this office your opinion concerning the following proposition to abolish the present

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muster roll and to adopt as a part of this plan the descriptive list herewith. Should any feature or features of the proposition be, in your opinion, inadvisable or impracticable, a statement will be given in every case showing in detail wherein the matter is considered inadvisable or impracticable.

PROPOSITION.

It is proposed to abolish the muster roll, placing the information now contained on that roll on the descriptive list and company return. At the same time the descriptive list will be so modified as to give a complete military record of the soldier. It will follow the soldier throughout his entire enlistment, at the expiration of which or upon the soldier's severance from the service by death, desertion, or other cause it will be sent to The Adjutant General of the Army for file. There is no intention of abolishing the monthly ceremony of muster, and the mustering officers' certificates will be made as at the present time on the pay roll.

The requirements of the twelfth article of war will be complied with by designating the pay rolls of December 31 and June 30 "Muster and pay rolls" and entering thereon the data called for by this article of war.

PURPOSES OF THE MUSTER ROLL.

The purposes of the muster roll are:

(1) To furnish a complete history of the organization for the period covered by the roll.

(2) To furnish a complete military record of every member of the organization for the period covered by the roll.

(3) To enable the War Department to furnish the Commissioner of Pensions data in connection with pension claims made by former soldiers.

(4) To enable the War Department to furnish the Auditor for the War Department information necessary to settle the accounts of certain soldiers.

(5) To enable the War Department to answer inquiries from friends, relatives, and others regarding the whereabouts, physical condition, etc., of soldiers.

(6) To enable the recruiting branch of The Adjutant General's Office to determine the number of prospective vacancies in the various organizations.

If the muster roll were abolished, these purposes would be accomplished, as follows:

(1) As at present, the complete history of the organization will be given on the monthly company return under the head "Record of events," which is consolidated and reported to the War Department on the regimental return. It is thought that the present practice of reporting the "Record of events" on the muster rolls and on the company return also is merely a duplication of work with no corresponding benefit.

(2) The complete military record of every member of the organization will be given on the descriptive list. This record will be practically in carded form when it reaches The Adjutant General's Office, and much more accessible than at the present time on the muster roll.

(3) Information required by the Commissioner of Pensions will be obtained from the descriptive lists. As all such requests are about former soldiers, the descriptive list will be on file in The Adjutant General's Office when the request for information reaches there.

(4) Information required by the Auditor for the War Department will be obtained from the descriptive list. It is understood that over 95 per cent of the requests for information from the auditor are about former, dead, or reenlisted soldiers, or deserters.

(5) Many of the inquiries from friends, relatives, and others regarding soldiers could be answered by The Adjutant General with as much detail as at present. In case The Adjutant General's Office could not give the information requested from the records in his office he could direct the inquirer to communicate with the commander of the organization to which the soldier belongs. By having organization commanders report by name on the monthly returns all transfers, deaths, and desertions, which data would be consolidated on the regimental return, The Adjutant General's Office would always know the whereabouts and general status of every enlisted man in the Army.

(6) To determine the number of recruits needed in an organization at any given period, the organization commander could be required to furnish The Adjutant General with a periodical statement of the number of prospective vacancies in his organization

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By adding the following headings to the new descriptive list herewith (which was prepared before the proposition to abolish the muster roll was considered): (1) Injuries, wounds, and sickness; (2) assignment or transfer to company; (3) extra duty, special duty, and detached service; (4) confinement or arrest in quarters—the form will give all the information at present given by the muster roll except the record of events, which is now and will continue to be given on the company return, and which reaches the War Department in consolidated form on the regimental return.

SOME OF THE ADVANTAGES OF THE PROPOSED PLAN.

(1) The abolition of the muster roll, a periodically submitted return which contains much data that reaches The Adjutant General's Office in other ways, and the preparation of which roll requires much time and labor.

(2) Great simplification in the matter of the descriptive list. At present whenever a soldier is detached from his company a new descriptive list is prepared and forwarded to his commanding officer; should he return to his organization, or be sent to another command, another descriptive list is prepared and forwarded to the proper commanding officer, and so it goes, a new descriptive list being prepared in each case. The plan proposed would obviate the necessity of preparing a new descriptive list in every case, thus not only making away with the clerical work involved, but also making away with the possibility of errors, which always exist in copying.

(3) Assuming that a soldier, who is retired after 30 years' service, has spent two-fifths of his time on foreign service, his military record would be contained in something like 130 muster rolls. When this man applied for retirement The Adjutant General's Office would make a search of 130 muster rolls in order to get his military record. Under the proposed plan it would be necessary to make a search of only eight or nine descriptive lists. Furthermore, if it is ever desired to get any particular feature of a soldier's record, the information desired would be found on the same numbered page in every descriptive list. With the muster rolls it would be necessary to pick out the information desired from the various remarks after the man's name on every separate roll.

(4) After the Civil War it took a number of years, at a big cost of time and money, to card the muster rolls of the Volunteers.

It is understood that after the War with Spain it took several years to card the muster rolls of the Volunteers.

Under the proposed plan the muster rolls of both Volunteers and Regulars would be virtually carded as soon as war ended.

WHAT WOULD HAPPEN IN CASE A DESCRIPTIVE LIST WERE LOST.

To begin with, experience has shown that descriptive lists are very, very seldom lost. It may, with safety, be estimated that no more than 1 in every 50,000 is ever lost. The plan of having only one descriptive list is followed both in our Navy and Marine Corps. Inquiry in the Bureau of Navigation shows that during the last two and one-half years, during which time over 100,000 descriptive lists were handled, only one or two were lost. In the Marine Corps since 1904 descriptive lists have been forwarded from station to station about 100,000 times, and about 20 or 25 have been lost, 10 of these having been lost in the San Francisco fire. Of course, in the Navy and Marine Corps sailors and marines are transferred much more frequently than in the Army.

However, should a descriptive list be lost, a new one could easily be prepared. The four vital parts of a descriptive list are: First, the list of deposits; second, the soldier's clothing account; third, the soldier's medical history; fourth, the soldier's physical description.

The list of deposits could be obtained from the Paymaster General; the clothing account from the retained individual clothing slips in the soldier's organization; the medical history from the Surgeon General's Office and The Adjutant General's Office; the physical description from The Adjutant General's Office.

Nearly all the other information, which is only of secondary importance, contained in the descriptive list could be obtained by investigation, but even if such data as a complete record of extra duty, special duty, detached service, etc., could not be obtained, it would make no difference.

LEONARD WOOD,
Major General, Chief of Staff.

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[Memorandum for The Adjutant General.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
January 8, 1912.

The Secretary of War directs that you submit as soon as possible the memorandum called for from this office on December 15, 1911, with reference to abolishing the muster roll.

L. W.,
Major General, Chief of Staff.

[Memorandum for The Adjutant General.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
January 31, 1912.

The Secretary of War directs that your opinion with reference to the abolition of the muster rolls, originally called for on December 15, and again called for on January 8, be furnished this office with the least practicable delay. The matter has been under consideration for a long time, and final action is being delayed solely with a view to receiving your reply.

L. W.,
Major General, Chief of Staff.

It will be seen that Gen. Ainsworth was directed to submit for the consideration of the office of the Chief of Staff his opinion, etc.; not for the consideration of the Secretary of War; nor does it anywhere appear in these papers that this memorandum was intended for the consideration of the Secretary of War.

The communication of Gen. Ainsworth to the Chief of Staff in response to the foregoing document is as follows; the portions printed in black-face type are those which are quoted by the Secretary of War in his letter to Gen. Ainsworth of February 14 as evidence of insubordination and other misconduct on his part:

[Memorandum.]

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE.

In the accompanying memorandum of the Chief of Staff, dated December 15, 1911, The Adjutant General is called upon, first, for his opinion concerning a proposal to abolish the present muster roll and "to adopt as part of this plan the descriptive list herewith"; and, second, to furnish a statement showing in detail wherein he considers any feature or features of the proposed plan to be inadvisable or impracticable.

In compliance with the first part of this call, The Adjutant General expresses the opinion that the entire plan is both impracticable and inadvisable, and that the formulation of it is a forcible illustration of the unwisdom of intrusting the preparation or amendment of the forms of Army reports to those who have no practical knowledge of the uses to which those reports are to be put.

In this connection it is deemed proper to remark that it is understood, perhaps incorrectly, that the plan now under consideration was formulated by two relatively young officers, neither of whom has any practical knowledge of the purposes for which muster rolls are used in the War Department. One of these officers, out of a total commissioned service of 14 years and 8 months, has served but 2 years with the regiments to which he had belonged, and but 1 year and 1 month in command of a troop therein. The other, out of a total commissioned service of 17 years and 8 months, has served 7 years and 9 months with the regiments to which he has belonged, and but 1 year and 2 months in command of a company therein, exercising that command for only 4 months as a captain, 8 months as a first lieutenant, and 2 months as a second lieutenant. Inasmuch as the total service of these officers as company commanders only amounts to about a year for each of them, their ability to

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deal with the subject in question, even on the company commander's side of it, is by no means apparent.

Neither of these officers, nor any other officer in or out of the General Staff, no matter how long he may have been in service, is qualified to prepare forms of any kind for use in The Adjutant General's Office, unless, through actual service in that office, he has acquired a practical knowledge of the manner in which and the purpose for which the information recorded on these forms is used.

It is a self-evident proposition that any bureau of the War Department that is charged by law or regulations with the obtaining and keeping of certain information, and that alone knows just what demands are likely to be made upon it from all sources for such information, is the best judge, and the only competent judge, of the form in which and the extent to which such information should be furnished to it. Therefore, it may be fairly stated as a general principle that the judgment of a chief of bureau as to the necessity for any particular report or return, or for any particular item of information required to be embodied thereon, should have much greater weight than the views of officers who have little or no knowledge of the purposes for which the reports, returns, or information in question are used in the War Department.

The muster roll is one of the most ancient and most important of our military reports. In nearly its present form it was in use in the American colonies long before their separation from Great Britain. It has stood the test of practical use for more than 150 years, both in peace and war, and on its pages, preserved in the archives of this office, is recorded the history of the American soldier from 1775 to the present time.

Thousands of millions of dollars have been disbursed, and more than $150,000,000 are now being disbursed annually for pensions alone, and almost all of that enormous expenditure has depended, and much of it still depends, primarily upon the showing of the muster rolls as to military service and military status, because upon that showing depends every other question of title under the pension laws, regardless of whether the claims be based upon wounds, injuries, disease, age, or any other ground. And upon this showing of the muster rolls many other millions have been disbursed, and are still to be disbursed for back pay, bounty, and other allowances, to say nothing of the claims of soldiers, their widows, and orphans, under local and other laws conferring rights, priviledges, and benefits upon them on account of honorable military service.

The experience of much more than a century of both peace and war has demonstrated conclusively that, with but few exceptions, all of the items of information that are now recorded on muster rolls that are forwarded to the War Department at frequent intervals, there to be examined, corrected, and preserved, are indispensable in the conduct of the current business of the department and are absolutely essential to the future protection of the interests of the Government and of a myriad of claimants against it. And now it is lightly proposed to abolish this time-honored, time-tried, and invaluable record, examined and corrected as each part of it is received in the War Department and all of it preserved there in safety, and to substitute for it a curtailed form of individual record that shall not reach the department until after the soldier is separated from the service, that shall not be subjected to any expert scrutiny until it is impossible to discover or correct serious errors or omissions, and that in many cases in time of peace, and in a multitude of cases in time of war, must inevitably be lost or destroyed before reaching the department, thus leaving a void in the military histories of the soldiers concerned, no part of which can be filled without the expenditure of much time and labor, and much of which can never be filled at all.

In compliance with the second part of the accompanying call, the following statement is submitted, although it is recognized that it will be difficult, if not impossible, to formulate any statement that will carry conviction to anyone who is so unmindful of consequences, or so uninformed as to the needs of the Government and the public with regard to the matter in question, as seriously to propose to abolish one of the most important, if not the most important, of all the records of the War Department. However, the statement is submitted in the confident expectation that when other, if not wiser, counsels shall prevail, and after experience with the proposed plan or any similar plan shall have shown the inevitable evil effects thereof, this statement will receive the consideration that may not be given to it now.

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The principal reasons for regarding the proposed plan as inadvisable and impracticable are as follows:

The proposed plan is plainly unlawful. The twelfth article of war, which embodies the law relative to the rendition of muster rolls, is as follows:

"ART. 12. At every muster of a regiment, troop, battery, or company, the commanding officer thereof shall give to the mustering officer certificates, signed by himself, stating how long absent officers have been absent and the reasons of their absence. And the commanding officer of every troop, battery, or company shall give like certificates, stating how long absent noncommissioned officers and private soldiers have been absent and the reasons of their absence. Such reasons and time of absence shall be inserted in the muster rolls opposite the names of the respective absent officers and soldiers, and the certificates, together with the muster rolls, shall be transmitted by the mustering officer to the Department of War as speedily as the distance of the place and muster will admit."

It is proposed in the accompanying memorandum of the Chief of Staff to evade this requirement of law by calling the pay rolls of June 30 and December 31 "muster and pay rolls," entering thereon the data required by article 12, yet maintaining the monthly ceremony of muster. But the adoption of this proposal could hardly fail to be regarded generally as a mere subterfuge of a kind that would be scorned by honorable men in any of the relations of private life, and that would be most discreditable to a great department of the Government in its management of the affairs of the Nation.

Article 12 requires that at every muster certain facts and the reasons therefor shall be certified to, and that these facts and reasons shall be "inserted in the muster rolls," not in pay rolls, even though they be called muster and pay rolls, and be made semiannually. Moreover, the article specifically requires that the muster rolls shall be transmitted by the mustering officer to the Department of War as speedily as possible. The plain intent of this requirement is that the muster rolls shall remain in the War Department, and the article has been so construed by that department from time immemorial. But pay rolls, whatever other name may be given to them, are not transmitted to the War Department by any mustering officer, nor do they remain in that department when they reach it. They are vouchers to paymasters' accounts, and as such are forwarded by the paymasters with their accounts to the Paymaster General, by whom they are examined and then transmitted to the Auditor for the War Department, in whose office they remain. The adoption of the plan proposed in the accompanying memorandum, aside from being liable to criticism as being an indefensible and discreditable subterfuge, would be a plain violation of both the letter and the spirit of the law.

It ought to go without saying that The Adjutant General's Office should be constantly in possession of the latest obtainable information as to the whereabouts and status of every officer and enlisted man of the Army, and that this information should be in the shape of direct, positive, and affirmative reports, leaving nothing to be assumed or inferred from the mere absence of such reports.

Under the proposed plan of abolishing the muster rolls, keeping the record of soldiers on individual descriptive lists that shall be forwarded to the department only at the expiration of the soldier's service, and requiring the monthly returns to show only transfers, deaths, and desertions by name, The Adjutant General's Office would have, except in case of transfer, death, and desertion, no positive information whatever with regard to any soldier in the Army between the dates of his enlistment and assignment to an organization and the date of his separation from the service, a period which in the cases of men serving their full terms in an organization, as the majority of them do, would now be a period of three years. During all this time the department would be in entire ignorance as to the status and conduct of the soldier, and would not even know whether he was a private or a sergeant major.

In responding to requests and appeals from official and private sources, averaging more than 100 a day, relative to the whereabouts, present status, transfer, or discharge of soldiers, and to many other kindred subjects relating to them, this office would be unable, for periods ranging from one month to three years, to give any information whatever with regard to the soldiers concerned beyond the mere fact that they had been assigned to certain organizations at certain more or less remote dates. In every such case it would be necessary for the office to communicate with, or to advise the applicant to communicate with, the commanding officer of the organization to which the soldier belongs, with no certainty that he would not be on detached service, or on furlough, or absent

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in confinement or otherwise. All this would involve much delay in every case, and a delay of several months in the case of every man stationed or supposed to be stationed in the Philippine Islands. Surely, the great amount of business of this kind that comes to The Adjutant General's Office from bureaus of the War Department, from other departments, and from the public at large ought not to be subjected to the vexatious and wholly unnecessary delays to which much of it would inevitably be subjected under the proposed plan.

The department owes a duty to the public in this very important matter of being ready to furnish it proper information in response to reasonable and proper inquiries, and if it can not discharge that duty with reasonable promptness it will subject itself to well-merited reproach. Would not the department be justly censurable if, in response to the appeal of an anxious father or mother, it could do no more than to say that the son had been assigned to a certain organization, perhaps two years previously; that since that time he had not been reported to have died, to have deserted, or to have been discharged; and that for further information concerning him inquiry should be made of his company commander in the Philippine Islands, from whom an answer might be expected in about four months?

The Adjutant General's Office is frequently called upon to furnish, under paragraph 124, Army Regulations, complete descriptive lists of surrendered or apprehended deserters from organizations serving in Alaska or beyond the continental limits of the United States; also to furnish at the earliest practicable moment descriptive lists of soldiers separated, without such lists, by transfer or otherwise, from organizations serving at remote stations in the United States or beyond the continental limits thereof. During the Civil War thousands of men absent from their commands and without descriptive lists were discharged from hospitals, convalescent camps, parole camps, and other similar centers of concentration, on descriptive lists prepared from muster rolls on file in The Adjutant General's Office, and furnished by that office. Many men were discharged in the same way during the War with Spain, and it is certain that in any war of magnitude great numbers of men who are absent from their commands without descriptive lists, or whose commands have been mustered out of service, will have to be discharged in the same way. Unless the department is constantly in possession of the military histories of soldiers, complete up to the latest possible date, such as are now furnished by the muster rolls, it will be impossible for the department to meet any of the demands made upon it in any of the classes of cases just mentioned. And it will be equally impossible for the department to check, verify, or correct the statements or allegations of service that are received in connection with the many applications that are submitted annually for discharge by purchase, for retirement, for long furloughs, and for various other privileges and benefits.

It will be seen by the foregoing statement that it is simply impossible for the department to wait, as the plan under consideration proposes it shall, for the details of a soldier's military history until after he shall have been separated from service, and then to receive that history in a form that it is impossible to check or verify in many of its most important particulars. Long experience has proven that accuracy and completeness of a soldier's military history, as well as its safe preservation, can be assured in no other way than by having the record of his service made up at comparatively short intervals and transmitted directly to the War Department, where it will be safe from all the vicissitudes of the field, and where it will be subjected immediately to examination and checking by experts, who will promptly take such steps as may be necessary to correct or supply any errors or discrepancies that may be discovered in the record. Such errors and discrepancies are discovered in great numbers in the rolls and other reports and returns that are received in times of profound peace from the Regular Army with its experienced officers and enlisted men, and it has been found that in time of war, as was to be expected, a vastly greater number of errors and deficiencies are to be met with in the rolls and other papers received from the Volunteer Army with its inexperienced officers and men, all profoundly ignorant as to military paper work and all of its requirements.

What kind of a service record of the volunteers of a general war should we have if, under a plan such as that in question, they should be permitted to go on from the beginning to the end of their service, keeping their individual records in their own way, perpetuating their own errors and shortcomings, and the War Department receiving no part of the record of the majority of them until after the disbandment of their commands, when it would be forever too

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late to correct errors, supply deficiencies, and reconcile discrepancies? Is not this consideration alone sufficient to condemn the proposed plan as utterly impracticable and unworthy of serious thought?

It is obvious that, in order that the department may meet the demands of its own business, as well as that of other departments and of the public at large, it will be necessary for it to have at some reasonably short intervals of time, not longer than two months, reports showing the name, organization, rank, status, and station of every enlisted man of the Army. This information can not be furnished with less labor, or in any more convenient form, than in the shape of a muster roll, which is and always has been preeminently the historical record of the individual soldier. Such information can not properly or economically be embodied in the monthly return, which is essentially a record of a command and of its numerical status from month to month.

The War Department should also have such an accurate, complete, and continuous record, showing affirmatively and not negatively or by inference the entire military history of every soldier, as will enable the department to furnish the Commissioner of Pensions, the accounting officers of the Treasury, and other officials of the Government accurate and complete information upon which to base the disbursement of the many millions of dollars that are expended annually on account of military service, and under constantly changing legislative provisions. Long experience has shown that the only way in which such a record can be assured is to have it made and furnished to the War Department at short intervals, so that errors or omissions shall not be perpetuated in it, but shall be detected and corrected contemporaneously, while it is still possible to do so, through the vigilant scrutiny and methodical checking to which it has been found absolutely necessary to subject all current muster rolls and other reports relative to officers and enlisted men.

It is only by unremitting watchfulness and voluminous correspondence that the War Department is now able to keep an accurate record of the essential features of a soldier's service. Under the scheme now brought forward, by which it is proposed that the full record of the soldier shall not be sent to the War Department until after he has been separated from the service, the thousands of errors and omissions that are now readily detected and promptly corrected would be perpetuated, with the result that it would be impossible to correct or explain them in later years, when it would be of vital importance to do so in connection with pension or other claims.

In the accompanying memorandum reference is made to the fact that a certain form of descriptive list is in use in the Navy and Marine Corps, and that fact is set up as an argument in support of the whole plan proposed in the memorandum. But the proponents of this plan fail to mention the much more important fact that neither the Navy nor the Marine Corps depends upon the descriptive list alone or even chiefly as the central record of its enlisted personnel, as it is proposed that the War Department shall do; and that neither the Navy nor the Marine Corps is content to remain for years in utter ignorance of the rank, status, conduct, and even the whereabouts of men, as it is proposed that the Army shall do, but that on the contrary both the Navy and the Marine Corps insist on the rendition of muster rolls at short intervals, the Navy requiring its rolls to be rendered every three months and the Marine Corps requiring them every month.

Upon inquiry in the Navy Department and at Marine Corps headquarters the facts stated below have been ascertained:

The Navy has used the "continuous descriptive list" for many years, recently changing from sheet to book form, but has never found it practicable to do away with the quarterly muster roll. The Navy finds it highly desirable to have each enlisted man carefully and frequently rated as to professional qualifications and conduct and uses the record on the descriptive list, now called "service record," and a special report in all cases of transfer, discharge, desertion, or death to record these ratings which are not reported on the muster rolls. But the Navy Department depends upon the muster roll as a final resort touching all matters required to be of record there.

The Navy Department would be better off than the Army without the muster roll, as with the Navy transfers are the very general rule, while with the Army they are the exception. Very few indeed of the enlisted men of the Navy serve a whole enlistment at the same station or on the same vessel. Most of them have several changes, and each change brings to the Navy Department a report giving a complete record of the sailor while serving at that assignment.

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In the Army a majority of the soldiers serve the entire enlistment in one organization, and without the muster roll this office would have no record of them from the date of assignment till the date when separated from the service.

In addition to the muster roll and "service record," the Navy Department is also keeping a card record of all sailors, using this record to card information obtained otherwise than from the muster rolls, but this system is quite new and the department is not yet satisfied as to its value.

Since about 1884 the Marine Corps has used in one form or another what may be called a continuous descriptive list, a form that follows the marine throughout his period of service and is forwarded to the Marine Corps headquarters whenever the marine is separated from the service.

This record was at first in the form of a double sheet of paper and was called "a descriptive list." It was then changed to the form of a thin blank book about 4 by 10 inches, called the "Descriptive book"; then by slight modification to its present form and called "service record."

The Marine Corps also keeps a carded record of every enlisted man. This record is made from the monthly muster rolls and is depended upon above all other record to give the complete and accurate history of the man.

The experience of the Marine Corps with the descriptive list as now proposed for the Army, and as used by the Marine Corps for over 25 years, is stated to be that the record contained in the descriptive list is often found to be incomplete and inaccurate, and little use is made of this record after it is received.

Each station or ship keeps a retained copy of the monthly muster roll as the history of the enlisted personnel of the command.

The proponents of the truly remarkable plan now under discussion have betrayed a lamentable lack of knowledge of the nature and uses of our so-called descriptive list, of which it is proposed that there shall be made but a single copy, which shall follow the soldier throughout his entire enlistment. If they had had, or had profited by, even a little service as company commanders in recent years, they would have learned that our descriptive list is primarily an organization record and the only approach to a complete record of its men that any organization has.

Prior to 1904, the books known as the "Company clothing book" and the "Descriptive and deposit book" were required to be kept among other permanent records of organizations. These two books, properly kept, contained a very full record of every soldier and of his accounts. Whenever a soldier was detached or transferred, his company commander prepared, from these books and the retained copies of company pay rolls, a descriptive list which was sent to the soldier's new organization commander.

In 1904 the General Staff devised a new system of keeping, by the "loose-leaf" method, a record of the soldier and of his accounts. The form devised (Form 29, M. S. O., 1904) was known as the "Descriptive list, military record, and statement of accounts," and replaced the "Company clothing book" and the "Descriptive and deposit book," which were discontinued and have never been authorized since. Under this system, whenever a soldier was detached or transferred, the sheet bearing his "Descriptive list, military record, and statement of accounts" was withdrawn from the live file, a copy of as much of it as was required was forwarded to his new commander, and the original sheet was filed in the permanent records of the company with other similar sheets pertaining to other former members of the organization.

The "loose-leaf" form was found on trial to be unnecessarily large and cumbersome, and in 1906 a new form (Form No. 29, M. S. O., 1906), bearing the same title as the old one, viz, "Descriptive list, military record, and statement of accounts," was adopted and is in use to-day, having undergone no material change except as to its title, which, for the sake of brevity, was changed to "Descriptive list" by Paragraph I of War Department General Orders No. 162 of 1909. This form is used in all respects the same as the "loose-leaf" form of 1904; that is, it is primarily an organization record on which is entered from time to time all of the principal items of the military history of every enlisted man of that organization and of his accounts. It is retained permanently with the other records of the organization, and when a soldier is transferred or detached the necessary data are transferred from the original or record descriptive list to a new descriptive list, which is forwarded to the soldier's new commander.

Under the proposed plan of abolishing the muster roll and requiring a single descriptive list, of which no copy shall be made, to follow the soldier throughout

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his entire enlistment, and finally go to The Adjutant General's Office, the Company clothing book," and the "Descriptive and deposit book" having already been abolished, organizations would be left without any authorized record whatever of its former members, except the meager and unsatisfactory record afforded by the retained pay rolls, which are destroyed at the end of five years. (G. O. 70 of 1904; par. 281, A. R.)

Moreover, under the present system, as under all of its predecessors, any commander to whom a man is transferred always retains for his own protection the descriptive list that he received with the man, and if he has occasion to transfer him elsewhere always makes out a new list and sends it to the new commander. (In the medical department the old list is retained and a new one made on transfer only when there has been some change in the status of the man's pay or other accounts. Par. 1473, A. R.) In this way every commander has in his possession documentary evidence that will protect him against the results of negligence or errors on the part of any previous commander; but under the proposed plan, after the separation of a man from service, not one of his commanders will have any evidence whatever to protect him against a charge for an improper payment for which some other commander was really responsible, nor would any commander against whom such an improper charge should be made have any record to indicate or even suggest the name of the officer really responsible.

Except in the medical department in time of war, transfers and detachments are not of sufficient frequency to make burdensome the labor of making out new descriptive lists in the cases of transferred or detached men, and the situation in the medical department has been fully met in this respect in the manner set forth in paragraph 1473, Army Regulations. If at any time it shall appear that any other branch of the service is similarly circumstanced, the same provision can easily be made for that branch. At any rate, it is not believed that officers who are liable to be charged with responsibility for the errors or omissions of others will be willing to save themselves a little labor at the cost of giving up documentary evidence that will protect them against such a charge.

The plan of committing the entire military record of a soldier to a single document that is likely to pass through many hands, and is expected to land in The Adjutant General's Office after no one in the Army has any further use for it, contemplates in this respect putting all our eggs in one basket and taking a great many chances of losing both eggs and basket beyond recovery. It is noted that in the accompanying memorandum it is stated that losses of this kind in the Navy and Marine Corps are negligible; but even admitting the accuracy of that statement, concerning which further inquiry might well be made if it were worth while to make it, it is sufficient to say that the experience of The Adjutant General's Office with a similar record is entirely to the contrary. The descriptive and assignment cards of soldiers, which are only required to pass from places of enlistment to the organizations to which the men are to be assigned, and thence to The Adjutant General's Office, are very frequently lost in transit, so that a great many of them fail to reach their final destination.

One does not need prophetic vision to see clearly that with armies in the field in time of war the loss of descriptive lists must inevitably be great, and that in the rush of business incident to such periods these losses might not, and probably would not, be discovered until long after their occurrence. In the meantime the records of the War Department would be incomplete. The robust assertion in the accompanying memorandum that "should a descriptive list be lost a new one could easily be prepared," is not quite as convincing as assurance of Holy Writ. On the contrary, it is certain that even the few relatively unimportant items of record that the memorandum specifies as obtainable from one source or another, could only be obtained by the expenditure of an amount of time and labor that would be poorly repaid by the meager data that could be collected.

The cool assurance with which it is asserted in the memorandum that "it would make no difference" if other data could not be obtained, "such as a complete record of extra duty, special duty, detached service, etc.," evidences such ignorance of the vital bearing that many of the data so lightly spoken of, but which, if lost, could never be supplied from any record source, have upon a multitude of pension and other claims that it would be a loss of time and effort to discuss the subject further here.

There are other grave objections to the proposed plan that might be stated, but if those that have been pointed out are not sufficient to carry to the minds

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of those with whom the decision of this matter now rests the conviction not only that the proposed plan is both illegal and impracticable, but that it is most inadvisable ever to intrust to incompetent amateurs the management of business that is of nation-wide importance, and that can only be managed prudently, safely, and efficiently by those whom long service has made experts with regard to it, then it will be worse than useless to present further facts or arguments here.

F. C. AINSWORTH,
The Adjutant General.

FEBRUARY 3, 1912.

It will be noticed that nowhere in the foregoing memorandum of the Chief of Staff to The Adjutant General does it appear that the Secretary of War is mentioned or cited for authority for anything except the directions to The Adjutant General to submit his opinion to the office of the General Staff on the proposition to abolish the muster roll; and if he should regard any portion or portions of the proposition as inadvisable or impracticable, to submit a statement "in every case showing in detail wherein the matter is considered inadvisable or impracticable." The authorship of this proposition was nowhere disclosed, nor was any authority for its preparation stated or even suggested. Certainly the most careful reading of this memorandum does not in any way connect the Secretary of War with it, as its author or even its sponsor, and no remarks which were made upon it by The Adjutant General can be tortured into impugning "the fairness and intelligence of the Secretary of War," unless the person giving them such a meaning was searching for a pretense upon which to found a charge against Gen. Ainsworth.

It will also be observed that Gen. Ainsworth, who must have been in a position to know what he was talking about, prefaced his remarks by a statement to the effect that he understood that the proposition was formulated by two relatively young officers, whose lack of practical experience and consequent unfitness to deal with the subject in question Gen. Ainsworth made apparent by giving their respective service records. The Secretary of War chose to ignore this fact in his letter of February 14, but a careful examination of this paper shows beyond doubt that all of Gen. Ainsworth's subsequent criticism of this proposition to abolish the muster roll was based upon this understanding as to its authorship, and that this understanding was correct is evidenced by the fact that neither the Secretary of War nor anyone else has questioned its correctness in any of the papers submitted to this committee. The assertions of the Secretary of War as to the meaning and intention of Gen. Ainsworth are without foundation, so far as disclosed by these papers.

But regardless of the authorship of the proposition to abolish the muster roll, it is evident that Gen. Ainsworth based all of his remarks with regard to it, and very properly, upon the manifest truth that no one who is ignorant of the purposes for which muster rolls are used in the office in which they are deposited and preser viz, the office of The Adjutant General of the Army, can pos competent judges as to the advisability of discontinuing c ing that important record. And your committee, rec- nilippines for force of the reasons given by Gen. Ainsworth for- will be assigned of the muster roll, hopes that his fearless and eral for these details is what he believes to be, and in fact prov to the Government and to the people been in vain, and that this prop-

LEONARD WOOD,
Major General, Chief of Staff.

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Your committee is unable to conceive how it could possibly involve any reflection on the conduct, attainments, or motives of any person, to point out, as Gen. Ainsworth did, in direct, forcible, but perfectly respectful terms, that those who have no practical knowledge of the subject in question are incompetent to deal with it. Except as stated below, all the remarks quoted by the Secretary of War from the memorandum of The Adjutant General, dated February 3, 1912, are of this character. If they are read in their proper context it will be seen at once that they refer only to the inexperienced proponents of the proposition under discussion. They do not furnish the slightest justification for the accusations made by the Secretary of War against Gen. Ainsworth.

If officers of the Army who are requested to give their opinion upon subjects with which they are familiar, and with which they deal every day, can not do so in a perfectly free, frank, and respectful manner, then the Army is in bad case. If men are liable to be suspended from duty and threatened with court-martial for being honest in the expression of opinions called for by proper authority, then will the Army become a collection of sycophants, and not what the American people believe it to be, a body of brave men, fearless in the discharge of duty, honest in their dealings with their superiors, and eminently qualified to maintain in peace and war the dignity and honor of the country.

Your committee wishes to point out, that in submitting, in compliance with the call therefor, the detailed statement of his reasons for regarding the proposition to abolish the muster roll as inadvisable and impracticable, Gen. Ainsworth, after pointing out the difficulty of formulating any statement that would carry conviction to any one so unmindful of consequences, or so uninformed as to the needs of the Government and the public, as seriously to propose to abolish the muster roll, said that he submitted the statement "in the confident expectation that when other, if not wiser, counsels shall prevail *and after experience with the proposed plan or any similar plan shall have shown the inevitable evil effects thereof*, this statement will receive the consideration that *may not* be given to it now." This temperate and entirely respectful expression of a belief that, even if Gen. Ainsworth's statement should not be regarded as convincing by those now advocating the plan in question, experience with that or any similar plan would eventually convince others that the views set forth in that statement are correct, has been cited by the Secretary of War in support of his charges against Gen. Ainsworth. The unfairness of that citation and the utter baselessness of any accusation predicated upon it are evidences of the inability of the Secretary of War to do justice to Gen. Ainsworth.

Gen. Ainsworth, in pointing out the illegality of the proposed [illegible] of the twelfth article of war said that, "the adoption of [illegible] *could hardly fail to be regarded generally* as a mere [illegible] of a kind that would be scorned by honorable men in [illegible]lations of private life and that would be most dis- [illegible] department of the Government in its manage- [illegible] of the nation." To a plain man this was a [illegible] as such, and as advice, and was a plain [illegible] kely to be placed upon the measure. [illegible] with the requirement that the

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Adjutant General should state in detail wherein he regarded any feature of the proposed plan as undesirable. The committee, after examining these papers and this letter of the Secretary, wonders how it was possible to concoct such an avalanche of charges with such small material.

In order to bolster up his accusations against Gen. Ainsworth the Secretary of War quotes in his letter from another memorandum of Gen. Ainsworth as evidence that he had, by "*insinuation*," charged the Chief of Staff with improper motives. That memorandum is one that was addressed to the Chief of Staff by Gen. Ainsworth on September 5, 1911, in response to a communication from that office dated August 30, 1911, and is as follows, the part printed in black-face type being the extracts quoted by the Secretary of War:

[Memorandum relative to the assignment of officers to command the five general recruit depots.]

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE.

Inasmuch as the subject of the memorandum is one of great importance, involving as it does grave questions of policy on the part of the War Department, and the interests of the whole Army as affected by and through the general recruiting service, The Adjutant General deems it incumbent upon him to present the subject somewhat fully in this paper and to request, as he hereby does, that the paper be submitted to the Secretary of War himself for decision of the questions at issue.

Following is a copy of the communication that raised the subject to which this memorandum relates:

[Memorandum for The Adjutant General.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
Washington, August 30, 1911.

It is necessary to provide for the assignment of some of the additional colonels at the present time on the Army Register.

The Secretary of War directs that Col. E. P. Andrus remain at present in command of the recruiting depot at Fort Logan, and that colonels from the accompanying list be selected to command Fort Slocum, Columbus Barracks, Jefferson Barracks, and Fort McDowell.

For the five recruiting depots it is desired that selections be made from the following list, so that two of the depots will be commanded by colonels of Cavalry, one by a colonel of Field Artillery, and two by colonels of Infantry. A list of the available colonels from which these selections are to be made are:

Cavalry:
- Hatfield.
- Bishop.
- Day.
- Steever.
- Dodd.
- Hunter.

Field Artillery:
- Foster.
- Van Deusen.

Infantry:
- Pitcher.

Infantry—Continued.
- T. F. Davis.
- Booth.
- Paulding.
- Reynolds.
- Williams.
- Chubb.
- Wilson.
- Getty.
- Lassiter.
- Terrett.
- Jackson.

Col. William T. Wood, heretofore ordered home from the Philippines for duty as commanding officer, recruit depot, Jefferson Barracks, will be assigned to duty with a regiment, owing to his long detached service.

An early recommendation from The Adjutant General for these details is desired.

LEONARD WOOD,
Major General, Chief of Staff.

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It will be seen that in order to provide for some of the colonels that were rendered superfluous by the legislation that was embodied in the last Army appropriation bill in response to repeated and persistent appeals made to Congress for additional officers and for a rearrangement of rank it is now proposed to assign four colonels to command an equal number of general recruit depots, and that these four shall be selected from a very restricted list of colonels who are said to be "available." Undoubtedly it is desirable and certainly it will be prudent to afford some reasonable employment for officers of all grades who have become or may hereafter become supernumerary by this so assiduously sought legislation, but it is submitted that this purpose should not be accomplished by any measure that is likely to decrease the efficiency of the general recruiting service that is of such vital importance to the Army.

From the earliest times The Adjutant General's Office has been charged with the management of the general recruiting service, and it doubtless will be admitted that The Adjutant General and his office are more fully advised as to the needs of that service and the difficulties that beset it than others can possibly be. It may be said without fear of successful contradiction that there is no ordinary military duty, including that of service in the General Staff Corps, that is of greater importance than the command of one of the big depots at which recruits are received from many different stations, enlisted or rejected, examined, clothed, and otherwise prepared for service, instructed in accordance with a uniform method adopted after conference with and approved by depot commanders, the Inspector General, and the present Chief of Staff, again examined by medical officers and inspected by the depot commander, and finally, if found qualified, shipped to the organizations in which they are to serve.

To insure the faithful and efficient discharge of the many and varied duties that are essential to the successful operation of a modern recruit depot, there is required on the part of the commander a combination of qualities of mind and heart that is not often found in one man either in military or civil life. He should be energetic, alert, ready to devote time and attention to the smallest as well as the largest details of the work under his charge, fond of that work, possessed of much self-control, patient but firm, just, a good judge of men, sympathetic where sympathy may well be bestowed but a strict disciplinarian when occasion requires, and, last but not least, in person, bearing, and dress he should be a soldierly exemplar not only for the commissioned officers and enlisted men who form the permanent garrison of the depot, but also for the multitude of young soldiers who come under his command at the formative and most critical period of their Army service. It is no disparagement to the many excellent colonels in the line of the Army to say that but very few of them can be expected to measure up to such a standard, and that far fewer, if any, who even approximate to it are to be found on any such restricted list as that which has been offered or suggested by the Chief of Staff. It will not be easy to find the men best fitted to command these depots even if the whole commissioned list of the Army is thrown open to selection, and it will be simply impossible if the choice is restricted, as is now proposed, to a few colonels for whom employment has not been found elsewhere or whom it is not desired to employ elsewhere.

The officers whom it is now proposed to remove from or to supersede in the command of depots are Col. Murray, at Columbus Barracks; Maj. Dugan, at Fort Slocum; and Maj. McGlachlin, at Fort McDowell. These officers have made their depots models of what recruit depots should be and have demonstrated that they possess in a high degree that rare combination of qualifications that marks the efficient and successful depot commander and administrator. To say nothing of the consideration that they have earned by their enthusiastic devotion to their work and the ability with which they have performed it, it is not believed to be in the interest of the public good to relieve or supersede them at the present time in the manner proposed or for the reason given for the proposal.

None of those depot commanders appears on the long list recently prepared of officers who have had an excessive amount of detached service, but, on the contrary, the official records show that all of them have had long service with troops.

Col. Murray has been about four years at Columbus Barracks, but he is an unassigned colonel, and to replace him by the detail of another officer of the same rank, whether assigned or unassigned, would not at all diminish the number of superfluous or unemployed colonels, so that some other reason for displacing him must be sought. It can not be urged as such a reason that he has had an excessive amount of detached service, for he has not. In his entire

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commissioned service of over 34 years he has been detached from his regiment considerably less than 10 years, but he has been with his regiment or in command of troops elsewhere for over 28 years. It may be well to compare this record of service with certain other similar records that are given elsewhere in this paper.

Maj. Dugan has been less than four years at Fort Slocum, and Maj. McGlachlin has only been about two years at Fort McDowell. After the splendid work that they have done in building up those depots as commanders of them it would be as unjust to them as it would be unnecessary to retain them in subordinate positions. In fairness to them they should be relieved, if officers senior to them in rank are to be assigned to those depots. But while such a procedure, if followed by the assignment of colonels to command those depots, would reduce the number of superfluous colonels by two, it would increase by one the number of unassigned majors for whom employment would have to be sought.

Col. Murray and Maj. Dugan were so unfortunate as to be compelled not long ago to appear before the Committee on Military Affairs of the House of Representatives for examination with regard to a bill that proposed to increase the enlistment period of the Army to five years. In response to questions addressed to them by the committee, they expressed views that were at variance with views subsequently expressed to the same committee by the Chief of Staff. Considerable publicity, for which Col. Murray and Maj. Dugan were in no wise responsible, was given by the press to this difference of opinion. And doubtless there are those who, not knowing or not believing that the Chief of Staff is too high-minded and conscientious to permit his official action to be influenced by such a matter, will be swift to conclude, if these two officers are relieved or superseded now, that the Chief of Staff is endeavoring to punish them because they gave testimony that may be regarded as damaging to his own, and that the solicitude now manifested in behalf of a few superfluous colonels, with none manifested in behalf of superfluous lieutenant colonels, is merely a pretext for a movement whose object is to annoy or humilitate certain officers connected with the recruiting service and to discredit the management of that service.

Additional ground for such a conclusion is to be found in a recent newspaper announcement, likely to be regarded as inspired, in which the proposed assignment of colonels to command recruit depots is coupled with a statement that a special effort is to be made to recruit regiments in the Philippines up to their authorized strength, thus suggesting that the vacancies in the ranks of those regiments are chargeable to the present management of the recruiting service, and suppressing the well-known fact that those vacancies are almost entirely due to the policy adopted without consulting The Adjutant General and since reported by the commanding general of the Maneuver Division to have been ill-advised, under which for many weeks all obtainable Infantry recruits, many hundreds in number, and all without any preliminary training whatever, were rushed to the Mexican border to fill certain regiments far beyond their normal strength, with the inevitable result that vacancies occurring in other regiments stationed in the Philippines and elsewhere could not then be filled, although in the ordinary course of events they soon will be filled now that the abnormal diversion of recruits before mentioned has ceased.

Of course, any such conclusion as that referred to here would be erroneous, but it is believed to be the part of wisdom not to give Congress, the public at large, or the Army any ground upon which to base it, at least at the present time.

It will be seen by the memorandum quoted at the beginning of this paper that it is intended to revoke the order assigning Col. Wood to the command of the depot at Jefferson Barracks, and to assign him to a regiment because of his long detached service. The intention thus expressed seems to require some comment, although The Adjutant General has been advised informally that the Chief of Staff has indicated his willingness to have Col. Wood, who is now en route from the Philippine Islands, assigned to the command of Columbus Barracks if it shall be found on his arrival in the United States that he desires that assignment.

The last commanding officer at Jefferson Barracks was Col. Mann. He had been there a comparatively short time when he was relieved without any inquiry as to the wishes of The Adjutant General in the matter, or as to whether the summary relief of Col. Mann would or would not be detrimental to the interests of the recruiting service. The Adjutant General was also directed to nominate a colonel of Infantry to succeed Col. Mann.

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When The Adjutant General was called upon to name a colonel of Infantry to succeed Col. Mann as commander of the recruit depot at Jefferson Barracks, he named Col. Wood, who was then serving with his regiment in the Philippine Islands and with whom, consequently, no communication with regard to the matter was practicable. This nomination was made because, first, The Adjutant General knew him to be especially well qualified for the peculiar duties of the position; and, second, because his detail would probably save a very valuable officer from retirement, it being regarded as certain that if he should be ordered before a retiring board he would be found permanently disqualified by deafness for the command of a regiment, whereas he can very well discharge the duties, largely administrative, that pertain to the command of a recruit depot.

It is true that Col. Wood has had considerable detached service, he having had 14 years and 10 months of such service out of a total commissioned service of over 34 years. Because of that fact, he would not have been nominated for the command of a recruit depot if it had not also been a fact that he is disabled to such an extent that it is manifestly in the interest of the service to permit some other colonel to take his place in command of a regiment, and to assign him to other duty for the full and efficient discharge of which his disability will not disqualify him at all.

Before Col. Wood is held to be unavailable for assignment to the command of a recruit depot because of his previous detached service, it will be both advisable and instructive to compare his record in this respect, as well as the records of the other depot commanders, with the records of many detached officers whose names are borne on the recently prepared lists of more than 270 officers with excessive amounts of detached service, among the number being certain young officers recently assigned to duty in the office of the Chief of Staff. One of those officers, a captain, has had but a little over 2 years' service with his regiment out of a total commissioned service of a little over 14 years. Another officer, a captain with the same length of service, has served but a little over 4 years with his regiment since he was commissioned a second lieutenant. Another captain, with 12½ years of commissioned service, has had less than 3½ years of service with troops. Still another captain, with a little over 16 years of commissioned service, has served only about 5½ years with his regiment. A lieutenant colonel, who has had about 30 years of commissioned service, has had a total service of less than 12 years with his regiment, none of that service being rendered in the grade of major or lieutenant colonel. During the 12 years ending July 31, 1911, he had been on detached service for over 10 years, and he is still on such service. All of these officers are on duty in the office of the Chief of Staff, and immediately under his eye, so that their cases must be well known to him. Many other similar cases might easily be cited if it were necessary to do so.

If able-bodied young captains and other officers such as those before mentioned, to say nothing of others whose names are borne on the recently published lists of more than 270 officers with records of excessive detached service, can be regarded as available for continuance on staff duty, surely a veteran and partially disabled colonel who, without any request or suggestion on his part, has been ordered from the Philippine Islands to Jefferson Barracks, and is now on his way there, may well be permitted to comply with his order. The revocation of his order and his assignment to a regiment would effect no decrease in the number of additional or detached colonels, and his assignment to any other recruit depot would accomplish nothing whatever beyond deranging his plans and defeating a recommendation made by The Adjutant General, not of his own volition, but in compliance with an order to make such a recommendation.

It will be impossible to obtain the men best fitted for the highly important duty of commanding the recruit depots if selection is to be restricted to any such limited list as that presented by the Chief of Staff, or even if the entire list of colonels is to be open to selection. And there is no good reason why selection should be limited to either of those lists. It is just as desirable to provide suitable employment for additional or detached lieutenant colonels as it is to provide places for additional or detached colonels. A general recruit depot affords a much more appropriate command for a lieutenant colonel than for a colonel, and suitable commanders are much more likely to be found among the younger men in the lower grade than among the older men in the higher grade.

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For the reasons hereinbefore stated, The Adjutant General requests that the memorandum of the Chief of Staff of August 30, 1911, be reconsidered, and recommends:

(1) That Maj. Dugan remain in command of the Fort Slocum depot until the expiration of his four-year tour on January 19 next.

(2) That Col. Murray remain in command of the Columbus Barracks depot at least until January 1 next.

(3) That Col. Wood's assignment to the Jefferson Barracks depot stand.

(4) That Maj. McGlachlin remain in command of the Fort McDowell depot at least until June 30 next.

(5) That hereafter commanders of the general recruit depots be selected from among the colonels and lieutenant colonels of the mobile army.

F. C. AINSWORTH,
The Adjutant General.

To the CHIEF OF STAFF.
SEPTEMBER 5, 1911.

[Memorandum for the Secretary of War.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
Washington, September 8, 1911.

Subject: The attitude of The Adjutant General in the matter of assigning officers to recruit depots.

1. It is specifically provided in law that the Chief of Staff, under the direction of the Secretary of War, shall have supervision over The Adjutant General's Department and over all troops of the line and staff corps. This includes the recruiting service and recruit depots. The Adjutant General is a subordinate officer of the War Department, to whom, by orders and regulations, certain duties are assigned, among them the recruiting service. He is expected to perform these duties conscientiously and loyally in accordance with the policy and wishes of his superiors. For him to set up standards of his own and to insist upon working for them without regard to the policy and wishes of his superiors is contrary to good order and military discipline. It was to prevent this that, through the efforts of Mr. Root, Congress created the General Staff and made the office of the Chief of Staff the coordinating and supervisory bureau of the War Department.[1]

2. The memorandum of The Adjutant General is an arraignment and criticism of the action of his superiors, on three principal counts: First, certain legislation enacted at the last session of Congress; second, the length of detached service of certain officers now on duty in the office of the Chief of Staff; and, third, the failure of the Chief of Staff to consult him in the matter of sending recruits to the Maneuver Division and of relieving Col. Mann from recruiting duty. None of these have any connection with the question of the

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[1] Secretary Root in his statement to the House Military Committee in the hearing on the bill (S. 4300, 56th Cong.) which is now the law respecting the constitution of various staff department, said:

"It is not in human nature that the men in each permanent staff corps should not regard their own work and their own powers as being of the greatest importance. They are all here in Washington; they are all in immediate contact with Senators, with Members of the House, with members of the Cabinet, and with the President, and year by year, little by little, a line here in this law and a paragraph there in that law, the power of these staff corps has been built up and the power of the line of the Army has been decreased until the evil of multiple command in our Army, taking away responsibility and power from the men in command of the geographical and tactical organizations, taking away power from them and therefore relieving them from responsibility, is producing a system which is not of the highest efficiency and is not such as we ought to have when we come to the test of war. And that will go on in years to come as it has gone on in the past, unless you take the step which seems to me to be fundamental, to lie at the bottom of all improvements in the efficiency of the organization—break up this separation between the staff corps here in Washington (who are the only ones heard by the Members of Congress) and the part of the Army on the frontier and in the Philippines and far away doing the work; break up the separation between them and we have but one interest coming to Congress, and that the interest of the Army as a whole and its general efficiency.

"I believe this provision is fundamental and essential, not simply to improve the organization as it stands, but to prevent the constant tendency in the wrong direction continuing in years to come."

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detail of colonels to command recruit depots, which was the only matter referred to The Adjutant General for remark.

3. The legislation referred to is the so-called additional or extra officers' bill and the provision for the readjustment of rank.

4. With reference to the first bill:

The Adjutant General states that the bill was enacted "in response to repeated and persistent appeals made to Congress." This is true. Legislation to provide extra officers for detached service has been agitated since the beginning of the Army.

Washington in 1780, President Adams in 1798, and John C. Calhoun (Secretary of War) in 1820, addressed communications to Congress upon this subject. On February 13, 1837, and 72 years later, January 7, 1909, the House of Representatives passed resolutions calling upon the Secretary of War for information as to the number of officers on detached service.

The present agitation for extra officers began in 1904, when Mr. Root tried to secure legislation authorizing the employment of retired officers in certain kinds of duty and limiting the use of active officers on detached service. The extra-officers bill in its final form was urged by Mr. Taft when he was Secretary of War. In this he was supported by President Roosevelt. Each Secretary of War in turn since Mr. Taft has urged the bill. It was enacted March 3, 1911, Congress reducing the number of extra officers from the 612 asked for to 200. In order to have a sufficient number of officers on duty with troops, and at the same time meet the proper demands made upon the War Department for the detail of officers at institutions of learning, for duty with the militia, etc., it will be necessary to have at least the 612 asked for.

5. With reference to the second bill (readjustment of rank):

This measure was recommended to Congress by the preceding Chief of Staff, Gen. Bell, in March, 1908, and by the Secretary of War, Mr. Taft. Subsequently the bill was not made a War Department measure, but an officer personally interested in the bill (Maj. W. C. Brown) was given permission to advocate it. The bill being referred to the War Department for report, Secretary Dickinson, upon my recommendation, returned it saying he had no objection to its passage, provided its benefits were limited to the active list.

6. The Adjutant General states that the enactment of the additional or extra officers bill rendered certain colonels "supernumerary" or superfluous. This is true, but not in the sense implied by The Adjutant General. The purpose of the bill was to provide extra or supernumerary officers who in time of peace would perform the detached service required of the Army by law and regulations and who, in time of war, would be available for service with Volunteers or with the Regular Establishment.

When the report was made to Congress in 1837 there were 183 officers detached. When Mr. Root complained of it in 1904 there were 423 detached. When the report was made to Congress in 1909 there were 734 detached. No better illustration can be given of the growth of the detached-service list than that the number of officers upon recruiting duty (under The Adjutant General) has increased from 58 active and 1 retired officer in 1904 to 119 active and 18 retired officers in 1910, although the strength of the Army fixed by Congress has remained practically the same.

7. The drain upon the line of the Army to furnish all of these details was very great, and yet in seeking relief it was essential that nothing should be done to further retard the already slow promotion to the upper grades of the Army. Presidents Roosevelt and Taft and Secretaries Root, Taft, Wright, and Dickinson have urged upon Congress the enactment of a bill known as the elimination bill, the principal purpose of which is to accelerate promotion in the Army.

At the present time the Navy has, proportionately, twice as many officers in the higher grades as the Army; yet there continued to be a demand for younger officers in command rank, and there is now before Congress a bill, heartily indorsed by the President in a special message, the purpose of which is to further accelerate Navy promotion.

The Adjutant General himself in his memorandum complains that the colonels are too old as a class to form good material from which to select recruit-depot commanders.

8. In order not to retard promotion, it was provided that the 200 extra officers should be distributed in the several grades in the same proportion as was now provided by law for the whole Army. They were divided as follows: Eight colonels, 9 lieutenant colonels, 27 majors, 79 captains, 77 first lieutenants.

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It is true that there was not so great a demand for extra colonels and lieutenant colonels as there was for extra captains, but still there were in fact more officers of the grades of colonel and lieutenant colonel on detached service prior to the passage of the extra officers bill than were authorized by that bill. The only cause for an excess of colonels and lieutenant colonels is the provision for the readjustment of rank, and this measure, as is above indicated, was not a War Department measure. All of this was fully set forth in reports and in hearings upon the legislation. The fact that this procedure did not have the sympathy or support of The Adjutant General was well known both before and after the legislation was secured.

9. Assuming, however, that for the purpose of carrying out the plans of the President and the Secretary in this matter, it was necessary to find places for so-called extra or supernumerary colonels, what more appropriate duty could be found than the command of a large recruiting depot? The Adjutant General himself has selected two colonels. Why should he not select all colonels, when officers of that grade are available, instead of insisting upon having majors when officers of that grade are not available? Why should he not conform himself to the general policy of his superiors and to the restrictions placed by them upon other bureau chiefs? The recruit depots are important commands in time of peace and entirely appropriate to the rank of colonel. In time of war they would be of still greater importance.

Heretofore the troops have had to stand the loss of their field officers to provide the recruit depots with commanding officers. Now, when Congress has specifically provided 200 extra officers for detached service, and among them 8 colonels, why should not 5 of these colonels be assigned to these depots? In order, however, that The Adjutant General might not be limited to the list of unassigned colonels, all unassigned colonels who were considered to be in any way unfitted for service were eliminated from the list presented to him, and to the list were added a considerable number of the best colonels on the active list.

10. While it is admitted that the qualifications required of an officer to command successfully a large recruit depot are those of an efficient officer, they are not greater than those required of a regimental commander, who is charged with one of the most important duties in the service, namely, the training and preparation of a regiment for war, whereas the duties of a commander of a recruit depot are largely limited to the preliminary training of recruits, and are not to be compared in importance with those of a regimental commander.

It is a commendable spirit in all bureau chiefs that they want to get the best men in the Army to perform their own particular work, and it is an excusable trait that they set themselves up as the judge of who these best men are. But it does not follow that each bureau chief should have an unlimited pick over the whole Army for his own purposes in total disregard of the interests of others.

11. Passing to the second question, namely, the excessive detached service of some of the officers on duty in the office of the Chief of Staff.

It is an unfortunate thing, yet a fact, that the tendency pointed out in the preceding paragraph for bureau chiefs and general officers to pick over the Army in selecting their assistants has resulted in many of the best officers being constantly on detached service. There is nothing discreditable in this either to the officers themselves or to those who wish their services. The detached service list is a necessary and an unavoidable evil. It has always been recognized as an evil, and ever since the time of Washington and Adams, as above pointed out, efforts have been made to eradicate or reduce it. There is a constant conflict between regimental commanders on the one hand and those who control the detached service on the other. As bad as it is in time of peace, it is worse in time of war. Washington complained of it from the battle field, and Gen. Upton in his work on military policy records an instance of a second lieutenant, graduate of West Point, who was wanted by the State of Ohio during the Civil War to command a volunteer regiment as its colonel. The application was turned down by the War Department, because of the excessive number of officers on detached service.

Congress has once or twice attempted to investigate the matter. Many bills to regulate it have been introduced, and some have been supported by the War Department. There was one pending when the last regular session of Congress closed.

12. The officers of the General Staff Corps are not selected by the Chief of Staff, but by a board of general officers, who are sworn to base their selection

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solely upon the records of efficiency established by the officers concerned. The fact that some of the officers so selected had already had "excessive detached service" is a matter over which the board has no control; nor would it be fair to the General Staff Corps or to the officers concerned if the previous good work of these officers, resulting in their assignments to important detached duty, should be used to discriminate against their selection for the General Staff Corps. Moreover, a General Staff detail takes precedence over all other classes of duty, and General Staff officers are selected without regard to the particular duty being performed at the date of selection. However, the General Staff Corps is the only staff corps which is protected by law in every grade from excessive detached service and against perpetuation in office. It is provided by law that no officer of whatever grade, including the Chief of Staff, shall serve more than four years continuously on the General Staff, and no such officer shall be redetailed without an intermission of two years. In the other staff corps this law is not applicable above the grade of major. Every officer now serving in the General Staff Corps has been properly selected in accordance with the law and the regulations to serve a tour of four years.

13. The principal objection to having officers on duty in the War Department who have been long separated from duty with troops is that such officers become hidebound, wholly unfamiliar with the needs of the Army, and regard the situation from the narrow standpoint of their own little sphere. There is no possible danger of this in the office of the Chief of Staff or among the officers of the General Staff, since such officers are selected from those serving on every class of duty and can not possibly remain in office more than four years continuously. But in the case of the permanent officers of the Staff Corps it is different, especially so in the case of The Adjutant General. The present incumbent came to Washington in December, 1886, and for 18 years was engaged in carding and indexing the dead records of the Civil War, a work which was most thoroughly and efficiently done. In 1904 he became The Military Secretary, and in this capacity took up the work formerly performed by The Adjutant General of the Army. In 1907 his title was changed to The Adjutant General. During this entire period he has not been in direct contact with troops. I am reliably informed that he has never even visited one of the large recruit depots since they have been established. He is, in my opinion, wholly unfamiliar, from the standpoint of the experience and knowledge which comes from service with troops, with the needs or requirements of the Army.

14. With reference to the third count, namely, the failure of the Chief of Staff to confer with him upon matters affecting the recruiting service.

It is true that he has not been consulted—that is, recently. Every bureau chief in the War Department is freely consulted upon every matter affecting his respective department except The Adjutant General. The reason that he has not been consulted is that he has made it impossible for the Chief of Staff to have any relations with him other than in writing. The last interview was of such a character as to render this course necessary unless severe disciplinary measures were to be resorted to. Since the establishment of the General Staff friction between The Adjutant General and the Chief of Staff has been almost constant.

Knowing the relations which had existed in the past between the Office of the Chief of Staff and the Office of The Adjutant General, I made every effort to go out of my way to concede to his views and to consult him upon every matter that could possibly be construed as coming within his province. I soon found that this was of no avail; that he was absolutely unyielding; and that it would be his way or no way with him. Under these circumstances, for the past several months such business as I have had to transact with The Adjutant General himself I have transacted in writing, oftentimes to the embarrassment of this office and to the hindrance of the expeditious handling of public business.

15. In conclusion I would respectfully invite the attention of the Secretary of War to the character of this communication, which constitutes, in my opinion, an act of gross official insubordination and discourtesy, and shows a lack of that high character and soldierly spirit which should be the distinguishing qualities of any officer holding the important position of The Adjutant General.

Very respectfully,

L. W.,
Major General, Chief of Staff.

The assertion made by the Secretary of War that in the foregoing document Gen. Ainsworth, "by insinuation, charged the Chief of

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Staff with improper motives," etc., is astonishing. The effort made to convict Gen. Ainsworth of improper conduct needed bolstering up, indeed, when it was deemed necessary to so flagrantly distort his meaning, as was done in this case, for an examination by even a prejudiced mind of those parts of this document quoted and relied upon by the Secretary of War will convince anyone that, far from containing anything in the shape of an "insinuation" against the Chief of Staff, they embody nothing but an open and straightforward statement of the construction that many persons would be likely to place upon the action proposed by him and timely and certainly not unfriendly advice against taking the action proposed.

Gen. Ainsworth said that "doubtless there are those who, not knowing or not believing that the Chief of Staff is too high minded and conscientious to permit his official action to be influenced by such a matter, will be swift to conclude, if those two officers are relieved or superseded now, that the Chief of Staff is endeavoring to punish them for giving testimony that may be regarded as damaging to his own." Your committee can not see in this frank statement of the truth any ground for complaint, and Gen. Ainsworth removed all possibility of doubt as to his meaning and purpose by explicitly stating that "*of course any such conclusion as that referred to here would be erroneous*, but it is believed to be the part of wisdom not to give Congress, the public at large, or the Army any ground upon which to base it, at least at the present time."

Your committee, with a pretty full knowledge of all the circumstances surrounding legislation undertaken by it since the beginning of the Congress, can only regret that the advice given above was not followed. The action taken by the War Department in the cases mentioned by Gen. Ainsworth and orders issued to other officers have compelled this committee to conclude that it will not, under the present régime in the War Department, be able to obtain the frank and free expression of their opinions from officers of the Army to which Congress is entitled when it is trying to shape legislation not only for the Army but for the country.

On September 19, 1911, in response to a personal letter from Gen. Ainsworth, which seems to have been written on August 30, no copy having been furnished, the Secretary of War then addressed to Gen. Ainsworth a letter which he marked "personal," but which he now chooses to parade as "a personal letter of warning," and is as follows, the portion printed in black-face type being that which the Secretary quotes in his letter of February 14, 1912, and describes therein as a "warning" in respect to the conduct of Gen. Ainsworth in submitting his memorandum of September 5, 1911, hereinbefore quoted in full:

Personal.]

HUNTINGTON, LONG ISLAND, N. Y., *September 19, 1911.*

Maj. Gen. F. C. AINSWORTH,
The Adjutant General, U. S. Army,
War Department, Washington, D. C.

DEAR GEN. AINSWORTH: On the receipt of your letter of August 30 I directed that the case of Col. Wood's assignment to Jefferson Barracks be suspended until I could speak to the Chief of Staff personally on the subject, which I have since done. I have since directed the Chief of Staff to communicate with Col. Wood and find out what his own personal preferences were, and I shall be guided somewhat in making the assignment by that.

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I find that Col. Wood had been assigned to a regiment in the Philippines only a year or less ago, and that he accepted the assignment with a good deal of personal satisfaction. In view of his record for efficiency, I am not surprised at your desire to get the benefit of such a good officer in the recruiting service. But on the other hand, I do not think that the usual rule that an officer should serve the full two years in the Philippines should have been departed from in this case, particularly in view of the officer's apparent eagerness to perform that service. What you say as to Col. Wood's deafness will also be given weight in the final decision.

I have also read your memorandum to the Chief of Staff, a copy of which you sent me with your letter of September 5. I have directed that the other assignments recommended by the Chief of Staff be carried out. I find that, while there are a number of unassigned colonels in the line, there is an actual shortage of majors, and this seems to me a sufficient reason why majors should not remain assigned at the recruiting depots. I also find that the list of colonels submitted to you by the General Staff for selection to the recruiting service was twice as large as the usual number submitted to the other bureaus for similar nominations. Under all of these circumstances, while I appreciate your zeal and anxiety to make the recruiting service as efficient as possible, I do not deem it proper to change in these respects the proposal of the Chief of Staff.

I only wish to add that I greatly regret and reprobate certain passages of your memorandum and of the letter which you sent me. Nothing is gained by suspecting or intimating ulterior motives on the part of those with whom we have to act in association. In an organzation as large and complex as the War Department it is impossible that every action taken shall seem the wisest possible to all the members of that department. Many orders must be given and steps taken which to some bureau or some individual seem ill advised and unfortunate. But in such cases and in all cases the President has a right to expect that all of the officers of the department will act as a unit, with faith in each other's motives even if they differ as to judgments. In no other way can the morale of the Army or its organization be maintained for a moment.

Very sincerely, yours,

HENRY L. STIMSON.

So much of the foregoing letter as is described as a "warning" is a palpable misrepresentation, for certainly nothing in this letter could be construed into warning The Adjutant General with a view to his future discipline or punishment; nor was there anything in the memorandum referred to in this letter which could have justified the Secretary of War in warning The Adjutant General of the Army. It does not appear from the papers furnished whether Gen. Ainsworth ever made any response to this extraordinary letter; but as no response to it is sent with these papers, the inference is that Gen. Ainsworth did not answer it.

The Secretary of War charges Gen. Ainsworth with habitual "rudeness and ill temper" and as evidences of "these offenses against propriety" quotes part of a paragraph from a memorandum made by Gen. Ainsworth on March 25, 1911, relative to paper work in the Army, and leaves it to be inferred that that memorandum was addressed to the Secretary of War himself. He suppresses the important facts that the memorandum was prepared by The Adjutant General, as a subcommittee of the War Department Board on Business Methods, consisting of five members, of whom Gen. Ainsworth was one; that the memorandum was made for that board, by which it was adopted after full consideration, and that the board forwarded it with, and as a part of, a formal report to the Secretary of War. Following is a copy of that report and of so much of the accompanying memorandum (No. I) of Gen. Ainsworth of March 25, 1911, as is pertinent to this discussion. The part of the memorandum in black-face type is

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the extract quoted by the Secretary of War in his letter of February 14, 1912:

REPORT No. 7.

WAR DEPARTMENT BOARD ON BUSINESS METHODS,
Washington, May 3, 1911.

Subject: Paper work in the Army.

The board met, pursuant to the call of its president, at 3 p. m., April 22, 1911, and took up the consideration of a memorandum submitted by its subcommittee "Relative to recommendations concerning paper work in the Army," which memorandum is hereto attached as Appendix A, which consists of Memorandum No. I and Memorandum No. II, dated, respectively, March 25 and April 15, 1911.

The recommendations and suggestions concerning paper work in the Army covered in the memoranda referred to were made in a great number of communications from the heads of bureaus of the War Department, department commanders, and officers of the Army in response to call for such suggestions by the War Department.

The suggestions and recommendations made in the communications referred to are briefed in Appendix A, and each suggestion or recommendation is immediately followed by a recommendation of the subcommittee of the board in charge of this particular line of inquiry.

Copies of each of the memoranda which compose Appendix A were submitted to the individual members of the board, in order that each of them might have an opportunity to give consideration to the matter treated of under the various headings or numbers before the meeting of the board. The total number of headings is 197 (92 in Memorandum No. I and 105 in Memorandum No. II). All the members of the board, with one exception, expressed their readiness, at the meeting of April 22, to reach final conclusions on the matters before it.

The recommendations and suggestions of the dissenting member were submitted verbally to the board at its meeting and are embodied in a minority report, hereto attached.

The board having given careful consideration to each of the numbered suggestions shown in Appendix A, to the recommendations of its subcommittee following thereafter, and also to the verbal suggestions of the dissenting member, concurs, after full deliberation, in the recommendations made by its subcommittee, for the reasons set forth in detail under each number or title, subject to the following remarks:

As to recommendation No. 29, relative to the discontinuance of "Statement of financial operations of post exchanges at military posts" (Form No. 102, A. G. O.), the board submitted the question of the advisability of discontinuing this report to the Inspector General of the Army for an expression of his views. The Inspector General agreeing that this report could be discontinued without disadvantage to the service, the board concurs in the recommendation made (A. G. O. 1746488) that this report be discontinued.

As to recommendation No. 33, the board concurs with its subcommittee that general court-martial orders should not be embodied in a separate series when issued by the War Department, but is of the opinion that the frequency with which general court-martial orders are issued from department headquarters warrants their being published by each department in a separate series, and suggests the issuance of instructions to department commanders that due economy should be used in the printing and distribution of this class of orders, so that only such numbers would be printed and distributed as are essential and necessary.

As to recommendation No. 41, to the effect that returns and forms be reduced wherever practicable to a standard size, the board is of the opinion that efforts now being made by The Adjutant General of the Army along these lines should be continued, and that the studies referred to in memorandum No. 1, looking to a change in the form of enlistment papers and the reduction of the number of signatures thereon, should be continued by The Adjutant General.

As to recommendation No. 42, the board is of the opinion that columns "Horses" and "Pieces of artillery" should be eliminated from the post return. (A. G. O. 1746940.)

As to recommendations No. 109 and No. 110, referring to the efficiency reports of officers (Form 187, A. G. O.), the recommendation of its subcommittee is concurred in. The board is, however, of the opinion that The Adjutant Gen-

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eral of the Army should study the question whether this form can not be combined with the individual service report (Form 266, A. G. O.)

A careful examination of the various suggestions made by the bureaus, the department commanders, and officers of the Army, embodied in the appendix and considered in this report, seems to indicate that a large majority of cases there would be neither an increase in the efficiency of the Army nor a reduction of paper work connected with administration if they were carried out, for a very large number of these suggestions would simply involve the transfer of paper work from places where it is now being done to other places, and in some cases would, whilst relieving officers of a task, necessitate the employment of additional civilian clerks. *The suggestions made appear to be, to a degree, based upon insufficient knowledge, on the part of the persons making them, of the administrative details connected with the operation of the great departments and bureaus of the War Department. Some of them, indeed, indicate a lack of knowledge of existing laws, and others of the purposes of Congress in calling for and requiring certain reports to be rendered for its use. The board invites attention to the fact that with very few exceptions the officers making recommendations and suggestions for changes in reports or methods of conducting the paper work of the Army either give no reasons or very insufficient ones for the line of action they propose.*

While the board believes that it has recommended in this report a considerable reduction in the paper work of the Army, without materially injuring administrative efficiency, it is of the opinion that it can not at this time, without injury to the efficient administration of the Army, proceed further in this direction or go to the extent in the reduction of paper work which appears to seem desirable to the officers making the suggestions upon which it has acted. One of the reasons for this conclusion, which may not have been apparent to them, is that by reason of the long-continued efforts of the War Department in this direction, extending over many years, very material reductions in the paper work of the Army have already been made. These reductions have been brought about as a result of studies undertaken by other boards convened previous to the creation of this board, and as the results of constant efforts to reduce clerical work by the several chiefs of the bureaus of the War Department, who are charged with the maintenance of a system of records which, whilst being kept in accordance with the law, would be suitable for any conditions and available for quick and ready reference.

F. C. AINSWORTH,
Major General, United States Army, President,
The Adjutant General of the Army.
E. A. GARLINGTON,
Brigadier General, United States Army,
The Inspector General, Member.
W. W. WOTHERSPOON,
Brigadier General, United States Army, Member.
JOHN C. SCOFIELD,
Assistant and Chief Clerk, War Department, Member.

[Memorandum No. 1.—Relative to recommendations concerning paper work in the Army.]

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE.

It is to be observed that the recommendations to which this memorandum relate are, in general, for an abbreviated or informal method of correspondence with a minimum record thereof and for a reduction in the number of returns, rolls, and reports now required. The officers making these recommendations naturally deal with the subjects from their own point of view, especial weight being given to the consideration of personal convenience. But little or no consideration is given by them to the needs of the War Department, and, in fact, such needs probably are not known or are only imperfectly understood by the majority of officers.

It should also be observed that any bureau of the War Department that is charged by law or regulations with the obtaining and keeping of certain information, and that alone knows just what demands are likely to be made upon it from all sources for such information, is the best judge, and the only competent judge, of the form in which and the extent to which such information should be furnished to it. Therefore it may be fairly stated as a general principle that the judgment of a chief of bureau as to the necessity for any

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particular report or return, or for any particular item of information required to be embodied therein, should have much greater weight than the views of officers who have little or no knowledge of the purposes for which the reports, returns, or information in question are used in the War Department.

It is proper to remark that, with a view to reducing the paper work of the Army to the lowest possible limit that is consistent with efficiency and accuracy, The Adjutant General's Office has been engaged for the past seven years upon a continuous and systematic study of the blank forms issued by it to the Army and of the reports and returns received by it from the Army. Careful consideration has been given to all suggestions of change, from whatever source received, and it has been the uniform practice not to order a new supply of any form without first ascertaining whether there is reason to believe that the form can be amended in any way with benefit to the service. As a result of all this many radical changes in forms have been made, with a view to convenience and economy of time and labor on the part of those using them. It will readily be understood therefore that almost all the changes that are now recommended and that are the basis of this memorandum have heretofore received full consideration and that but very few of the recommendations now under consideration present anything that combines the three all-important elements of practicability, utility, and safety. It is needless to say that any proposed measure that lacks any one of those elements is not a measure that should be adopted in the public service.

* * * * * * *

Returns, muster rolls, and pay rolls:

(41) Recommendations: That some or all of the present returns, muster rolls, and pay rolls be abolished, consolidated, curtailed, rendered at less frequent intervals, or changed in form. (A. G. O. 1746488; 1741192; 1739762; 1735753; 1746995; 1739645; 1743543-B; 1735849; 1743543; 1746940; 1740815; 1746995; 1738794; 1746488; 1732283; 1749060; 1747817; 1740740; 1745770.)

All these recommendations are disapproved, with the few relatively unimportant exceptions hereinafter noted. Almost all of them show, on the part of those making them, a deplorable ignorance of or indifference to the requirements of law with regard to the rendition of these returns and rolls and the purposes for which they are rendered. Such ill-considered and impracticable recommendations afford convincing proof of the futility of calling upon officers of the Army generally for an expression of their views with regard to the paper work that they are required to perform. The files of this office are full of similar responses to similar calls previously made, and it is safe to say that very few of those responses were ever of any value to the Department in its repeated investigations of the perennially recurring question of paper work in the Army.

The return in its various forms is one of the most ancient as well as most important of all military papers. The rendition of most of these forms is required by law, the seventh article of war, and all of them are simply indispensable, because upon them alone the War Department and commanders of all grades from the highest to the lowest must rely for a readily accessible and concise showing of the composition, strength, and effectiveness of the commands rendering returns. In addition to this, the return is preeminently the historical record of the command to which it pertains, setting forth as it does in concise form and at short intervals all the principal changes that take place in that command from the beginning to the end of its existence. No other form of report ever has taken, or ever can take, the place of the return in this respect.

The muster roll is primarily and chiefly the historical record of the individual soldier, giving once in two months a detailed account of the service of that soldier during the period covered by the roll. It is the chief source upon which the department must rely in order to meet the numberless demands that are made upon it for information as to the present status and past histories of individual soldiers, including information to be used in the settlement of claims of the individuals themselves, or their widows and orphans, for pension, pay, and many other rights, benefits, and privileges, the allowance of which depends upon the record of military service.

The pay roll is a financial and not a military record. Its form and substance are subject by law to determination by the Comptroller of the Treasury, and its destination is the office of the Auditor for the War Department, there to be filed as a voucher to a paymaster's account. Pay rolls never reach The Adjutant General's Office, and as compared with the muster rolls they are

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relatively valueless as sources of information as to the military status and service of present or former soldiers. For these reasons, and especially because the form and substance of the pay roll are not subject to the control of the War Department, no further consideration need be given to that roll in connection with the subject of this memorandum.

From the foregoing statements it will be seen that the purposes and uses of the return and the muster roll are widely different, it being the chief function of the return to show the status and history of a command, whereas it is the chief function of the muster roll to show the status and military histories of individual soldiers. These two reports differ as widely in form and substance and as to the periods covered by them as they differ in functions and uses, so that there is no real relationship between them. While information of a somewhat similar nature is obtainable, to a limited extent, from each of these reports, the separate and distinct uses made of this information and of the reports containing it are so unrelated that it is beyond question that no avoidable duplication of labor is involved in the preparation of the reports. To compile from the muster rolls information to take the place of some of that now shown in concise form by the returns is simply impossible, because, to say nothing of the long delay involved, the task of making such a compilation would be enormous and far beyond the capacity of the clerical force allowed by law to The Adjutant General's Office. No argument is necessary to show the unwisdom of concentrating in the War Department a burden of labor that is borne lightly if distributed over the whole Army but that would be overwhelming if concentrated in the department.

For the reasons hereinbefore stated, it is evident that no serious consideration should be given to the recommendations and suggestions that have been made with a view to abolishing, curtailing, or consolidating returns or muster rolls, in whole or in part. Aside from the injury that would result from any such action, because of the need for all the information now furnished by the various returns and rolls, and because of the widely different purposes for which the information now contained in separate reports is and must always be used, the consolidation of such unrelated matter, especially such as is borne by muster rolls and returns, would create a cumbersome and complicated report that must be rendered at more frequent intervals than the muster rolls are now rendered, that would lack the simplicity and succinctness of the former separate reports, that would delay and embarrass the work of the War Department and the Army, and that would undoubtedly increase that work instead of diminishing it.

With regard to the frequency with which these reports shall be rendered, it is sufficient to say that long experience has demonstrated conclusively that, in order to serve even reasonably well the purposes for which they are intended, the returns must be rendered at periods of not more than a month and the rolls at periods of not more than two months. It goes without saying that those who must make use of the information that is furnished by them should have that information as of the latest practicable date. The present requirements as to the period for which returns and muster rolls shall be rendered are not unduly burdensome upon those who have to render them, but even if they were they could not be relaxed in this respect without greatly impairing the value of the information furnished and causing serious embarrassment to those whose duty it is to make official use of that information. The injury that the public service would suffer through any additional delay in rendering these reports would in nowise be compensated for by the relatively trifling amount of labor that those who prepare and render the reports would escape.

The size and form of the present returns are those which long experience has shown to be best adapted, all interests considered, to the purposes for which they are intended, and no change in this respect should be made. With regard to the muster roll, experiments are now in progress with a view to determining as to the practicability of changing it into a form of standard size, 8½ by 3¾ inches. In addition to this as hereinafter stated, there are certain changes that can be made in the arrangement of the form and that will lessen the labor of preparing the reports thereon. These changes will be made before a new edition of the muster roll is printed, regardless of whether or not it is found practicable to reduce the size of the roll to that of the standard form. With these exceptions no change should be made in the form or the requirements of the present muster roll. * * *

F. C. AINSWORTH,
The Adjutant General.

MARCH 25, 1911.

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As further evidence of "rudeness and ill-temper" on the part of Gen. Ainsworth, the Secretary of War quotes certain remarks made by Gen. Ainsworth on October 16, 1909, "in speaking of another general officer in the War Department, the head of one of its most important bureaus." But the Secretary of War, as appears from these papers, suppresses the following most important facts, and by so doing does gross injustice to Gen. Ainsworth; the facts suppressed are that these remarks were made by Gen. Ainsworth in reply to a most unprovoked attack which had been made upon him by the Chief of Engineers in an official communication addressed to the Secretary of War; that those remarks were contained in an indorsement addressed to the Acting Secretary of War in compliance with a specific order ordering him to submit such "report and comment" as The Adjutant General might desire to submit with regard to the attack made upon him by the Chief of Engineers, and that the baselessness of this attack made by the Chief of Engineers was fully shown by reports made by The Adjutant General, the Acting Chief of Staff, the Judge Advocate General, and the Assistant Secretary of War. Why this old story should have been revived at this time, your committee can not understand, unless it was for the purpose of discrediting Gen. Ainsworth.

Following is a copy of all the correspondence of any importance, or which is pertinent to this discussion, that part of Gen. Ainsworth's indorsement of October 16, 1909, which is printed in black-face type being the extract which is quoted by the Secretary of War in his letter of February 14, in support of his accusations:

[Fifth indorsement.]

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, September 21, 1909.

Respectfully returned to the Chief of Engineers, with remark that the action of his office in authorizing Maj. Cavanaugh to assume the duties of Maj. McIndoe without first submitting the matter to this office for the action of the Secretary of War, by whose order Maj. McIndoe had been placed in charge of those duties, was wholly unnecessary and unwarranted.

As Maj. Cavanaugh's telegram was received by the office of the Chief of Engineers at 2.46 p. m., Friday, September 3, there was ample time for the Acting Chief of Engineers to ask for, in the usual manner, and to obtain the issuance by competent authority of the necessary telegraphic orders on that day.

By order of the Secretary of War:

BENJ. ALVORD, *Adjutant General.*

[Sixth indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, October 4, 1909.

1. Respectfully submitted, by his permission, to the Secretary of War.

2. *The indorsement of September 21, 1909, on these papers constitutes a reprimand administered to the chief of a bureau of the War Department by The Adjutant General in the name of the Secretary of War.*

3. *It is believed by the Chief of Engineers that the powers and duties of The Adjutant General in regard to the transaction of routine business in the name of the Secretary of War do not authorize The Adjutant General to administer such a reprimand without in fact submitting the papers in the case to the Secretary of War and obtaining his express sanction of the contemplated action. The Chief of Engineers is informed that this course was not followed in the present case, and that the Secretary of War had not seen the papers in this case*

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and had not sanctioned the reprimand administered by The Adjutant General when the indorsement of September 21 was written. The Chief of Engineers, therefore, takes exception to this action of The Adjutant General, which is regarded as beyond his authority and power and subversive of discipline, even if the rebuke or reprimand administered were warranted by the facts. No officer should be subject to reprimand by another officer not his commander and without the knowledge of any authority competent to administer a reprimand to an officer of the Army. (Pars. 2 and 3, Army Regulations, Articles of War 25.)

4. *The rebuke administered to the Chief of Engineers by The Adjutant General* in the indorsement of September 21 is based upon the action of the Acting Chief of Engineers in directing Maj. Cavanaugh, on September 3, to temporarily assume charge of the river and harbor and fortification duties in charge of Maj. J. F. McIndoe, Corps of Engineers, and the funds pertaining thereto. On the date mentioned a telegram was received at the office of the Chief of Engineers from Maj. Cavanaugh, then at Portland, Oreg., on leave of absence granted by the Chief of Engineers, stating that Maj. McIndoe, in charge of the river and harbor and fortification works of the Portland engineering district, had been taken ill with typhoid fever and that his immediate relief was imperative. Acting under the general powers granted to the Chief of Engineers by law and regulations, the acting chief at once directed Maj. Cavanaugh by telegraph to temporarily assume charge of Maj. McIndoe's engineer-department duties and funds. In the opinion of the Acting Chief of Engineers a grave emergency was presented. Maj. McIndoe's disbursements average over $150,000 per month, and in order to avoid delay and confusion it was important that the transfer should be made while Maj. McIndoe's physical condition was such as to enable him to sign the necessary transfer papers. No change of station was involved in the transaction and no expense was incurred.

5. While the above action of the Acting Chief of Engineers was entirely within the limits of the powers, duties, and discretion of the Chief of Engineers, it was nevertheless reported at once by Col. Abbot, the Acting Chief of Engineers, to The Adjutant General, both by telephone and by letter, and request was made for confirmation of the action by the Secretary of War. According to Col. Abbot's recollection the matter was reported by telephone before his telegram was sent directing Maj. Cavanaugh to assume charge of Maj. McIndoe's duties, so that if The Adjutant General had jurisdiction in the case, and so desired, he could then and there and at once have annulled the action of the Acting Chief of Engineers, and could have taken such measures as he deemed proper in the case. This, however, he did not do. Four days later, under date of September 7, The Adjutant General notified this office that the Secretary of War had confirmed the action of the Acting Chief of Engineers in directing Maj. Cavanaugh to temporarily relieve Maj. McIndoe of the duties in his charge (letter herewith). Notwithstanding this official confirmation, the indorsement of September 21 was written 14 days later, characterizing the action of the office of the Chief of Engineers in the matter as unwarranted and unnecessary.

6. The statement in the indorsement of September 21—that as Maj. McIndoe had been placed in charge of his duties by the order of the Secretary of War, the Chief of Engineers has no power to temporarily relieve him of them—is not in conformity with practice and precedent. It is true that Maj. McIndoe was directed to take station in Portland, Oreg., by War Department order (S. O. 119, W. D., 1908), and was directed by that order to relieve Lieut. Col. S. W. Roessler, Corps of Engineers, of the fortification and river and harbor works in his charge; but this latter direction does not curtail the power of the Chief of Engineers to increase or to diminish those duties or to assign any or all of them, for good and sufficient reasons, to other officers of his corps, so long as no permanent change of station is involved. By paragraph 1511, Army Regulations, the Chief of Engineers is charged "with the command of the Corps of Engineers, * * * and with the management of the engineer department, including the regulation of the duties of all officers, agents, and others who may be employed under his direction." By paragraph 745, Army Regulations, the Chief of Engineers is authorized to issue travel orders for necessary journeys on river and harbor and fortification duty, and the laws, regulations, and precedents of nearly 100 years uniformly recognize or specifically express the right and power of the Chief of Engineers to thus regulate the duties of the officers of his corps.

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7. The supervision and execution of works of river and harbor improvement and of fortification construction are placed by law under the Engineer Department, and the Chief of Engineers is specifically charged with the administration of these works, under the direction of the Secretary of War. Works of this character are committed by the Secretary of War to the Chief of Engineers and not to individual officers of the corps. The assignment of such works to individual constructing officers is made by the Chief of Engineers. With every river and harbor bill and every fortification bill additional works are intrusted to the Chief of Engineers, and are by him assigned to such officers as he selects, and his right to thus assign these works has never been questioned. Every new project of river and harbor improvement, every preliminary examination and survey, every new item of construction or repair of fortifications or accessories, provided for in the successive appropriation acts is thus assigned to the individual constructiing officers by the Chief of Engineers, and the fact of such assignment is not reported to The Adjutant General or to the Secretary of War. The Secretary of War holds the Chief of Engineers responsible for the works; it is the right and duty of the Chief of Engineers to direct his subordinate in its immediate execution.

8. A long line of precedents can be cited in support of the action of the Acting Chief of Engineers in this case, showing similar action without the intervention of The Adjutant General. Among recent cases of an exactly similar nature are the following:

In June, 1909, Capt. E. M. Adams, Corps of Engineers, stationed at Charleston, S. C., was taken ill with typhoid fever. The facts were reported to the Chief of Engineers, who at once directed Capt. E. I. Brown, Corps of Engineers, stationed at Wilmington, N. C., to assume temporary charge of Capt. Adams's duties and funds. This temporary transfer was reported to the Secretary of War direct, in connection with a request for the withdrawal of the funds to Capt. Adams's credit on the books of the Treasury and their reallotment to Capt. Brown, Capt. Adams being too ill to sign the transfer papers. Upon Capt. Adams's return to duty, at the end of July, Capt. Brown was directed by the Chief of Engineers to retransfer the works and funds to Capt. Adams, which was done.

In January, 1907, Lieut. Col. Edward Burr, Corps of Engineers, then stationed at Boston, Mass., was directed by the Chief of Engineers to temporarily relieve First Lieut. H. C. Jewett, Corps of Engineers, of the fortification and river and harbor works in the Portland (Me.) district, Lieut. Jewett being incapacitated by an attack of typhoid fever. Steps were taken to withdraw all funds standing to Lieut. Jewett's credit on the books of the Treasury, and requisition for funds to be placed to the credit of Lieut. Col. Burr was made. Lieut. Col. Burr remained in temporary charge of the Portland district until relieved by Lieut. Col. G. A. Zinn, Corps of Engineers, under the provisions of Special Orders 101, War Department, 1907, in May of that year.

In October, 1903, Col. G. J. Lydecker, Corps of Engineers, then stationed at Cincinnati, Ohio, was directed by the Chief of Engineers to assume temporary charge of the works in the Pittsburgh district during the illness of Capt. W. L. Sibert, Corps of Engineers, the officer in permanent charge, and he was similarly ordered by the Chief of Engineers to retransfer the works to Capt. Sibert when the latter returned to duty in November.

In February, 1900, Lieut. Col. W. H. H. Benyaurd, Corps of Engineers, stationed in New York, died suddenly in that city. Maj. W. L. Marshall, Corps of Engineers, also stationed in that city, was directed by the Chief of Engineers, by wire, to assume temporary charge of all duties, money, and property that had been in charge of Lieut. Col. Benyaurd. Maj. Marshall duly assumed charge of these duties, and remained in temporary charge until relieved by Maj. E. H. Ruffner, Corps of Engineers, under the provisions of Special Orders 94, War Department, April 21, 1900.

Precisely similar action was taken on the sudden death of Maj. J. F. Gregory, Corps of Engineers, in Cincinnati, Ohio, in July, 1897, and in the case of the sudden death of Col. O. M. Poe, Corps of Engineers, in Detroit, Mich., in October, 1895.

8. In the cases cited above an emergency existed of a similar character to that which was presented in the present case, but similar action has been taken by the Chief of Engineers even when no such emergency existed, as shown by the cases cited below.

In March, 1909, Capt. Lytle Brown, Corps of Engineers, stationed at Louisville, Ky., was assigned by the Chief of Engineers certain duties connected

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with the survey of the Ohio River, and, in order that he might perform these duties without detriment to the other works in his charge, Lieut. Col. J. G. Warren, Corps of Engineers, stationed at Cincinnati, Ohio, was directed by the Chief of Engineers on April 13, 1909, to temporarily relieve Capt. Brown of his other duties. These duties are to be retransferred to Capt. Brown upon completion of the field season of the Ohio River survey.

In November, 1907, Col. Milton B. Adams, Corps of Engineers, stationed at Grand Rapids, Mich., was granted a leave of absence for 2 months and 12 days, and in order to provide for the conduct of the works in his charge during his absence, he was directed by the Chief of Engineers to temporarily transfer the duties and funds in his charge to Maj. Charles Keller, Corps of Engineers, stationed at Detroit, Mich., and to resume charge upon his return from leave.

9. Similar citations could be multiplied indefinitely were it considered necessary. In all these cases travel orders for such journeys as were necessary to carry out the instructions of the Chief of Engineers were issued by the Chief of Engineers, and in none of them was The Adjutant General or the Secretary of War consulted, except incidentally when the transfer of funds by the method of the Treasury withdrawal and reallotment was necessary, on account of the inability of the officer in permanent charge of the work to sign the transfer papers. These cases are not evidences of a persistent violation of the rules of proper procedure but are examples of the necessary exercise of powers inherent in the principle of executive control by a responsible head.

10. The action of the Acting Chief of Engineers in directing Maj. Cavanaugh to temporarily assume charge of Maj. McIndoe's works under the Engineer Department was strictly correct and in accordance with precedent. His only error was in reporting his action to The Adjutant General and in asking a confirmation, which was totally unnecessary. If the Chief of Engineers had been present this error would not have been made. The duties which Maj. Cavanaugh was directed by this office to assume were only those pertaining to river and harbor improvement and to fortification construction. The lighthouse duties and funds were transferred, by order of the Secretary of War, after consultation with the Secretary of the Department of Commerce and Labor. There was no emergency in the Lighthouse Service, inasmuch as the naval inspector was on hand and could temporarily act. The action of the Acting Chief of Engineers, being within the discretion vested in the Chief of Engineers, is not reviewable by The Adjutant General; and even if it were so reviewable, the formal confirmation of that action by the Secretary of War, as expressed in the letter from The Adjutant General, dated September 7, 1909, herewith, is an absolute bar to further review or *animadversion on the part of The Adjutant General. The Chief of Engineers is charged with the execution of many varied and important works, involving the employment of multitudes of men and the expenditure of vast sums of public funds. If his executive acts within the legal sphere of his activities are to be reviewed by The Adjutant General and his discretion in the conduct of the works committed to him is to be questioned by The Adjutant General, the entire principle of executive administration and responsibility in the Engineer Department is or may be paralyzed. The Chief of Engineers can not recognize the right of The Adjutant General to so review his acts, nor can he submit to criticism or reprimand by The Adjutant General based upon the exercise of his discretion in matters which are by law committed to his charge.*

11. The Chief of Engineers feels this matter very keenly. He feels that The Adjutant General has used the name of the Secretary of War to obtain from the files of this office official papers pertaining solely to the business of this office, and that he has used these papers as the basis of a reprimand to the Chief of Engineers, administered in the name of the Secretary of War. Such a reprimand, if indeed administered by the Secretary of War, is a punishment which must be keenly felt by any conscientious and high-spirited officer, and which must follow him to the end of his career, if, in accordance with existing regulations relative to all expressions of censure from superiors, it is filed with his record in the War Department. But when such action is taken by The Adjutant General, in the name of the Secretary of War, but without his express sanction, it becomes a wrong and an injustice, which same method may be used to destroy each and every officer's usefulness in the Army.

12. For the various reasons above set forth, the Chief of Engineers requests that the reflections upon the conduct of the Office of the Chief of Engineers in

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this case contained in the indorsement of September 21, 1909, be expunged from the records of the War Department.

W. L. MARSHALL,
Chief of Engineers, United States Army.

[Seventh indorsement.]

WAR DEPARTMENT, *October 13, 1909.*

Respectfully returned to The Adjutant General, inviting attention to preceding indorsement, with direction to submit such report and comment as he may desire to present thereon.

ROBERT SHAW OLIVER,
Acting Secretary of War.

[Eighth indorsement.]

To Col. Alvord, for remark.
A. G. O.
Oct. 14, 1909.

[Ninth indorsement]

THE ADJUTANT GENERAL'S OFFICE,
October 16, 1909.

Respectfully returned to The Adjutant General of the Army.

In the afternoon of September 3 last, at least an hour before the close of office hours, Col. F. V. Abbot, Corps of Engineers, Acting Chief of Engineers, called me by telephone and stated that he had received telegraphic notice that Maj. McIndoe, in charge of the Portland (Oreg.) engineering district, was ill with typhoid fever, and that he, Col. Abbot, had telegraphed Maj. Cavanaugh, then on leave of absence in Portland, directing him to relieve Maj. McIndoe temporarily of his duties and to take over his funds. I asked Col. Abbot if he had already telegraphed such an order, and he distinctly answered that he had, and asked me what he should do next. Thereupon I told him that there was nothing for him to do but to make a written report of the matter to The Adjutant General of the Army and ask for confirmation of the action taken.

Under date of September 3, the Acting Chief of Engineers addressed to The Adjutant General the letter hereby returned. In that letter he reported the action taken by him with regard to Majs. McIndoe and Cavanaugh, asked that the instructions given by him to those officers be confirmed, and recommended that inquiry be made of the Department of Commerce and Labor as to whether there was objection to the temporary transfer of Maj. McIndoe's duties as lighthouse inspector to Maj. Cavanaugh. This letter was not received in the mail room of The Adjutant General's Office until just at the close of office hours on September 4, and the department was closed on the two following days; but on September 7 the letter reached my desk and I at once submitted it to the Acting Chief of Staff, who directed approval of the action taken and that the necessary letter be written to the Department of Commerce and Labor. I caused such a letter to be prepared and took it to the Acting Secretary of War, who, after hearing a statement of the case from me, signed the letter. I also addressed a letter to the Chief of Engineers, informing him that the Secretary of War had confirmed the action taken in directing the temporary relief of Maj. McIndoe by Maj. Cavanaugh.

In this connection it is proper to remark that since June 25, 1908, pursuant to instructions received from the Assistant Secretary of War on that date, unless otherwise specifically directed, all orders depending upon the authority of the Secretary of War for their validity have been given in his name, whether he be present or not, the use of the words "Acting Secretary of War" having been discontinued.

On September 8 I submitted to the Acting Chief of Staff a letter from the Acting Secretary of Commerce and Labor requesting the temporary assignment of Maj. Cavanaugh as engineer of the thirteenth lighthouse district, and by direction of the Acting Chief of Staff an order making the assignment was prepared. On the same day I stated the case to the Acting Secretary of War and submitted to him a telegram, which he signed, informing the Secretary of Commerce and Labor that an order detailing Maj. Cavanaugh temporarily as

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engineer of the thirteenth lighthouse district and directing him to report by telegraph to the Secretary of Commerce and Labor had been made. On the same day I also telegraphed Maj. Cavanaugh that this order had been made.

There being no record in this office of the telegraphic correspondence between the Acting Chief of Engineers and Maj. Cavanaugh on which confirmation of the action taken in the case by the Acting Chief of Engineers was asked and given in the name of the Secretary of War, as hereinbefore stated, I called upon the Chief of Engineers, in the name of the Secretary of War, on September 8 for copies of that correspondence. This call was made after submission of the matter to the Acting Chief of Staff and by his direction (first indorsement hereon). The copies thus called for having been received it was found that a copy of the telegram from Maj. Cavanaugh to the Chief of Engineers, informing him of the illness of Maj. McIndoe, was deficient in the important particular that it did not show the time of its receipt. It was also found, from a copy of the telegram of the Acting Chief of Engineers to Maj. Cavanaugh, tha the Acting Chief of Engineers had been in communication with the Lighthouse Board with regard to the matter. Therefore, I submitted all the papers in the case to the Acting Chief of Staff, and by his direction I called upon the Chief of Engineers, in the name of the Secretary of War, on September 14 (third indorsement hereon) for the original telegram from Maj. Cavanaugh to the Chief of Engineers, also for copies or a statement showing what passed between the Lighthouse Board and the office of the Chief of Engineers with regard to the matter in question.

In connection with these calls upon the Chief of Engineers for information with regard to this case it is proper to remark that both of the calls were made "By order of the Secretary of War" after submission of the matter to the Acting Chief of Staff and by virtue of the authority vested in the Chief of Staff by paragraph 3 of a published order (E) of the Secretary of War of April 14, 1906. That paragraph is as follows:

"The submission of matters to the Secretary by the Chief of Staff will be in person. Before presentation to either the Secretary or the Assistant Secretary the cases should be completed by obtaining the necessary recommendation, reports, or information from the bureaus of the department, or the military authorities outside of the department, and to this end the Chief of Staff is authorized to call therefor.

"By order of the Secretary of War."

After having been fully advised as to all the facts in the case the Acting Chief of Staff decided that the papers should be returned to the Chief of Engineers, whose attention should be called to the improper action of his office with regard to the case and especially to the fact that there was ample time to make request for proper action in the usual way. Thereupon, I caused the draft of an indorsement conveying that decision (fifth indorsement hereon) to be prepared. On September 21 I submitted that draft to the Acting Chief of Staff, who read it and approved it. I then took it to the Acting Secretary of War, who read it and approved it after I had advised him fully with regard to the case and the action that had been taken by the Acting Chief of Staff with regard to it.

Following is a copy of the record made by me immediately after the submission of this draft and before the fair copy was written:

"Foregoing draft submitted to the Actg. Chief of Staff and the Acting Secretary of War this date, and approved by them. B. A. (B. Alvord), A. G. Sept. 21, '09."

Not a single step has been taken by The Adjutant General's Office in this case, from the beginning up to the present time, without the full knowledge and approval of either the Acting Secretary of War, the Acting Chief of Staff. or both combined. The assertion of the Chief of Engineers that the third indorsement hereon conveys a reprimand to him is without foundation. That indorsement advises him in a very mild way to the effect that the action of his office in directing Maj. Cavanaugh to assume the duties of Maj. McIndoe without first submitting the matter for the action of the Secretary of War, by whom Maj. McIndoe had been placed in charge of those duties, was wholly unnecessary and unwarranted.

The facts in this case are very simple. Maj. McIndoe was placed in charge of certain duties by the express order of the Secretary of War. It required an order of the Secretary of War or the President to relieve him from those duties. The Acting Chief of Engineers undertook to relieve him without invoking the authority or consent of any superior. There was not the slightest necessity

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for his doing this. He received telegraphic notice of Maj. McIndoe's illness at 2.46 p. m., when both the Acting Chief of Staff and the Acting Secretary of War were in their offices and would remain there for at least an hour and a half. If he had brought or sent his telegraphic notice to The Adjutant General's Office, as he should have done, the notice would have been acted on by the Acting Chief of Staff and the Acting Secretary of War, and the necessary telegraphic order would have been sent to Maj. Cavanaugh all within 20 minutes at the most and probably within 10 minutes.

That a subordinate may change, even temporarily, the operation of a specific order of a superior when that superior is readily accessible and is in position to act in the matter virtually as quickly and as understandingly as the subordinate could is a proposition that in military affairs is novel, to say the least

BENJ. ALVORD, *Adjutant General.*

[Tenth indorsement.]

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, October 16, 1909.

Respectfully returned to the Acting Secretary of War.

The burden of the complaints embodied by the Chief of Engineers in his somewhat emotional indorsement (sixth) hereon is that he has been reprimanded and that The Adjutant General did it improperly, on his own responsibility, and by making unauthorized use of the name of the Secretary of War. Neither of these complaints has any foundation other than in the heated imagination of the officer who made them.

To say that informing the Chief of Engineers that certain action taken by his office was wholly unnecessary and unwarranted constitutes a reprimand is equivalent to saying that a reprimand to an officer is involved whenever in the course of official correspondence attention of that officer is directed, no matter how mildly, to any error of procedure on his part or on the part of any of his subordinates. The mere statement of such a contention is sufficient to show its fallacy.

The baselessness of the Chief of Engineer's confident assertion to the effect that The Adjutant General acted in this case on his own responsibility and improperly used the name of the Secretary of War in doing so is conclusively shown by the seventh indorsement hereon, in which it is made clear that every step that was taken in the case was taken with the full knowledge and approval of the Acting Chief of Staff, the Acting Secretary of War, or of both of them together, and that in every instance the Secretary of War was properly cited as the source of authority for the action taken. The Adjutant General accepts the entire responsibility for everything that was done in or by his office in this case. He would accept that responsibility without question even if his office had erred in the matter, but he knows that it did not err. He watched the case closely from the beginning, and took care that no step should be taken in it by his office without the full knowledge and assent of competent authority.

It does not seem incumbent upon The Adjutant General to enter into an elaborate defense of the decision, made by authority superior to him in this case, to the effect that, there being ample time to secure the action of such authority, the action of the office of the Chief of Engineers in relieving Maj. McIndoe of duties assigned to him by the Secretary of War was wholly unnecessary and unwarranted. It seems sufficient to say that if the Chief of Engineers can, as he contends, relieve such officers of duties so assigned to them whenever he sees fit to do so, and without the assent of the Secretary of War, he can at will completely nullify any such assignment orders of the Secretary of War, and the issuance of such orders by the Secretary is a useless and empty formality. Life is too short to permit of wasting any portion of it in discussion with, or for the benefit of, anyone whose conception of the underlying principles of military administration is so hazy that he can advocate such a proposition seriously. A proposition of this kind would be regarded as remarkable if advanced by a State militiaman, and it is simply amazing when put forward by an officer of the Regular Army, even though his connection with the military side of that establishment be so remote as to be merely nominal.

Touching the precedents cited by the Chief of Engineers in support of the action of his office in the case in question, it is to be observed that they all appear to have been created in his own office, and to be merely cumulative evidence of the entertainment by that office of erroneous views as to the powers of the Chief of Engineers. It is not doubted that the Chief of Engineers can find in the records of action taken by his office precedents for many irregular

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and unmilitary procedures, but it does not follow that those procedures were or are right, or that they would have been tolerated in the past if they had been brought to the attention of the proper authority, as was the procedure that led to this correspondence.

When the Chief of Engineers learns that the principal allegations made by him in the sixth indorsement hereon are without foundation in fact, he must be deeply chagrined over the deplorable recklessness of statement that he displayed in that indorsement. But the predicament that he has placed himself in is one that usually awaits those who hasten to attack others without first making sure that their own weapons are reliable. Perhaps the Chief of Engineers may be brought to realize, too, that to protest with much vehemence that one has been unjustly reprimanded or otherwise outraged by having his attention called officially to an error on his part is an artifice that does not obscure the error, however much it may relieve the chagrin that is naturally due to the discovery of the error and to the notice taken of it.

This incident will not have been entirely devoid of value, to the Chief of Engineers at least, if that officer shall learn from it that he can best protect the interests of his department by taking care that he and it shall be right in their procedure, and that it is never wise and is seldom safe to attack others without first making sure that the attack is justifiable and that the weapons of the attacking party can be depended upon.

F. C. AINSWORTH,
The Adjutant General.

[Eleventh indorsement.]

WAR DEPARTMENT, *October 16, 1909.*

Respectfully referred to Brig. Gen. W. W. Wotherspoon, Assistant Chief of Staff, for such comment hereon as he may desire to submit.

ROBERT SHAW OLIVER,
Acting Secretary of War.

[Twelfth indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
Washington, October 19, 1909.

Respectfully returned to the Acting Secretary of War.

The facts in this case are fully and accurately set forth in the eighth (ninth) indorsement hereon. When my attention as Acting Chief of Staff was called to the fact that an order had been issued by the Acting Chief of Engineers, without consultation with or the consent of the Acting Secretary of War, assigning an officer of his corps to duty which would keep him away from his regular station for an indefinite time, the question naturally arose, did such an emergency exist or was the necessity so great as to warrant what appeared to be an unusual act? In determining what emergency or urgent necessity existed for this action it was necessary to ascertain whether the date or hour of the receipt of information on which the action was taken was such as to preclude the use of the ordinary methods pursued in the assignment of officers to duty of any kind. When it developed that this information was received at least an hour and a half prior to the time the Acting Secretary of War left his office on the date in question, and that the urgency of the case was not such as to preclude the slight delay of from 5 to 10 minutes which would have resulted had the Acting Chief of Engineers pursued the normal and regular course in bringing the matter to the attention of the Acting Secretary of War before issuing the order, I deemed the occasion a proper one to invite the attention of the Acting Secretary of War and the Acting Chief of Engineers to what appeared to be the lack of necessity and warrant for such precipitate and unusual action. I therefore approved the draft of the indorsement referred to by the Chief of Engineers and directed that it be submitted to the Acting Secretary of War to see if it met with his approbation. The indorsement was so submitted and approved by him.

In inviting the attention of the Acting Chief of Engineers to the manifest lack of such urgency or necessity in this case as to warrant such a departure from the ordinary and normal way of transacting business connected with the detail of officers for duty there was no intention of conveying a reprimand to that officer, and it appears to me that it requires a somewhat strained interpretation to attribute such a meaning to the indorsement complained of.

W. W. WOTHERSPOON,
Brigadier General, General Staff, Assistant to the Chief of Staff.

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[Inclosure to the twelfth indorsement.]

[Memorandum for the Acting Secretary of War.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF STAFF,
Washington, October 20, 1909

The following, whilst having no place in my indorsement on the papers connected with the complaint of the Chief of Engineers that he construed a certain indorsement of The Adjutant General of the Army as an unauthorized reprimand, seems to be pertinent to the subject under discussion, for it would appear that the real subject at issue is, Can the Chief of Engineers order officers of his corps on duty without consultation with the Secretary of War, or, at least, without pursuing the same course as is followed by other corps and departments of the Army?

The Chief of Engineers, in the opening sentences of paragraph 10 of his indorsement, says:

"The action of the Acting Chief of Engineers in directing Maj. Cavanaugh to temporarily assume charge of Maj. McIndoe's works under the Engineer Department was strictly correct and in accordance with precedent. His only error was in reporting his action to The Adjutant General and in asking a confirmation, which was totally unnecessary."

Maj. Cavanaugh was assigned to duty in the Office of the Chief of Engineers, with station in this city, by paragraph 22, Special Orders No. 215, War Department, 1907. Paragraph 5, Special Orders No. 175, War Department, 1908, detailed him as a member of the Lighthouse Board. Maj. McIndoe was assigned to duty at Portland, Oreg., in charge of fortification and river and harbor works and as chief engineer of the Department of the Columbia by paragraph 6, Special Orders No. 119, War Department, 1908. He was assigned to lighthouse duty by paragraph 2, Special Orders No. 127, War Department, 1908. Paragraph 16, Special Orders, No. 144, War Department, 1908, revoked so much of the first order as related to duty as chief engineer, Department of the Columbia.

All of the above orders were issued either

"By order of the Acting Secretary of War:

"J. FRANKLIN BELL,
"*Major General, Chief of Staff.*

"Official:
"HENRY P. MCCAIN, *Adjutant General.*"

or

"By order of the Acting Secretary of War:

"WILLIAM P. DUVALL,
"*Major General, Acting Chief of Staff.*

"Official:
"HENRY P. MCCAIN, *Adjutant General.*"

From this it will be seen that both of these officers were assigned to duty in the regular and normal way by orders issued from The Adjutant General's Office, pursuant to instructions from the Secretary of War's office, and that those orders involved duty in connection with fortification works in addition to work connected with river and harbor work and lighthouse duty. To claim that the change of status of these officers can be made without instructions received through the same channels as those used in the above-cited orders would appear to raise the question whether officers of the Engineer Corps constitute a body in the Army exempt, so far at least as their assignment to river and harbor and fortification work is concerned, from that supervision and direction which the Secretary of War holds and exercises through The Adjutant General's Office over all other officers of the Army. There is no question but that the Secretary of War can issue such orders or instructions as he deems proper, and may issue them in such manner as seems to him proper. At the same time there seems to be equally no question but that all officers of the Army must comply, unless specially directed otherwise, with such regulations and orders as have been promulgated by the Secretary of War governing methods of procedure in bringing matters which require his official sanction to the Secretary of War's attention. In my opinion the procedure suggested

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by the Chief of Engineers, in that part of his indorsement above quoted, would not be consistent with regulations and orders now existing.

Very respectfully,

W. W. WOTHERSPOON,
Brigadier General, General Staff,
Assistant to the Chief of Staff.

[Thirteenth indorsement.]

WAR DEPARTMENT, *October 20, 1909.*

Respectfully referred to the Judge Advocate General, inviting particular attention to the twelfth indorsement hereon and to the accompanying memorandum of the Assistant to the Chief of Staff, dated October 20, 1909.

By the personal direction of the Secretary of War, the Judge Advocate General will render full report upon the following questions, viz:

1. Did the Acting Chief of Engineers act within his rights when directing Maj. Cavanaugh to temporarily relieve Maj. McIndoe?

2. Has the Chief of Engineers authority, without orders from the Secretary of War, to assign to or relieve from duty or order from point to point such officers of his corps as are engaged (*a*) in river and harbor work; (*b*) upon fortification work?

ROBERT SHAW OLIVER,
Acting Secretary of War.

AT BELLE MEADE,
Nashville, Tenn., October 9, 1909.

DEAR SIR: I inclose herewith the papers in regard to the reprimand of the Chief of Engineers by The Adjutant General.

The issue made by them must be determined. I have had no question of this sort presented to me, and do not know what precedents there are. Without any knowledge on the subject, it seems that it would be proper to refer the matter to the Judge Advocate General, to report upon the following propositions:

(1) Did the Acting Chief of Engineers act within his rights in directing Maj. Cavanaugh to temporarily relieve Maj. McIndoe?

(2) Was it a matter over which The Adjutant General had any jurisdiction?

If any other points occur to you, please submit them also.

I would like to have a report made by you in this matter, either in the way I suggest or in some other way, if this is not in accordance with precedent, so that I may dispose of it on my return to Washington.

Yours, respectfully, J. M. DICKINSON.

Hon. ROBERT SHAW OLIVER,
Assistant Secretary of War, Washington, D. C.

MEMORANDA RELATING TO THE EXTENT OF THE AUTHORITY OF THE CHIEF OF ENGINEERS OVER THE WORKS IN HIS CHARGE.

Extracts from river and harbor appropriation acts.

[Act of Mar. 3, 1909.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the preservation and maintenance of existing river and harbor works heretofore appropriated for by Congress and for continuing in operation such dredging and other plants or equipment of any kind owned by the United States Government and constructed or acquired for use on river and harbor improvements there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be immediately available and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, the sum of eight million one hundred and eighty-five thousand seven hundred and fifty dollars: *Provided,* That allotments from the amount herein named shall be made by the Secretary of War, and the same shall be recommended by the local engineer having such channel improvement or other public work in charge and the Chief of Engineers, respectively:

* * * * * * *

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[Act of Mar. 2, 1907.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be immediately available and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the construction, completion, repair, and preservation of the public works hereinafter named:

* * * * * * *

Extract from sundry civil act approved March 4, 1909.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed for the fiscal year ending June thirtieth, nineteen hundred and ten, namely:

* * * * * * *

ENGINEER DEPARTMENT.

Toward the construction of works on harbors and rivers, under contract and otherwise, and within the limits authorized by law, namely:

* * * * * * *

Extract from the fortification appropriation act approved March 3, 1909.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sums of money herein provided for be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, namely:

FORTIFICATIONS AND OTHER WORKS OF DEFENSE.

UNDER THE ENGINEER DEPARTMENT.

* * * * * * *

FORTIFICATIONS IN INSULAR POSSESSIONS.

ENGINEER DEPARTMENT.

* * * * * * *

Extracts from Army Regulations, 1908.

745. When a chief of bureau of the War Department desires to change the station of an officer or enlisted man of his department, or to send him on duty peculiar thereto (except in cases of officers employed under the appropriations for the improvement of rivers and harbors and for construction of fortifications), he will apply to The Adjutant General of the Army for the necessary orders, setting forth the reasons for the change or the purpose of the journeys.

[Exception.]

747. When business upon which a board of officers is to be assembled is solely within the sphere of duty of a particular staff department, and the members thereof are to be selected from the same, the chief of such department will call the board if it is to meet at a post or station under his immediate control and is to be composed only of officers serving thereat; otherwise the order appointing it will be issued by direction of the Secretary of War.

Copy of 21510/1 and first indorsement.

Subject: Orders.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., June 18, 1897.

Hon. R. A. ALGER, *Secretary of War.*

SIR: The Chief of Engineers has authority to issue orders to the officers of the Corps of Engineers under his command for journeys in connection with the work to which such officers are assigned.

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But it has been customary heretofore to request the authority of the Secretary of War to issue such orders when it is the purpose to collect two or more officers as a board in any locality, for the purpose of securing information and the furnishing of advice and recommendations to the Chief of Engineers.

It is respectfully recommended that the authority of the Chief of Engineers be so extended as to include the issuance of orders for such boards of engineer officers as may, in his opinion, be necessary for properly carrying out the work assigned to his charge.

Very respectfully, your obedient servant,

JOHN M. WILSON,
Brigadier General, Chief of Engineers, United States Army.

[First indorsement.]

WAR DEPARTMENT, *June 24, 1897.*

Approved.
By order of the Secretary of War:

JOHN TWEEDALE,
Chief Clerk.

Extract from Engineer Regulations. Approved by the Secretary of War March 22, 1906.

5. Journeys to be performed by officers of the Corps of Engineers on duty connected with river and harbor work, and with fortification work, may be ordered by the Chief of Engineers or approved by him when the emergency requiring the journey does not permit of obtaining an order previous to asking the journey. * * *

Extract from Army Regulations, 1908.

1511. The Chief of Engineers will have his headquarters at Washington, D. C., and will be charged, under the direction of the War Department, with the command of the Corps of Engineers, both staff and line, excepting such portions as are specifically detached by order of the War Department, and with the management of the Engineer Department, including the regulation of the duties of all officers, agents, and others who may be employed under his direction.

The Adjutant General issues no orders to engineer officers under the command of the Chief of Engineers, except in case of permanent change of station, or when the law distinctly requires the President or the Secretary of War to select members of boards and commissions, such as lighthouse members, engineer members of the Mississippi River Commission, etc., and when such officers are to be detached from duty under the Chief of Engineers. Also riding tests of officers on duty in Engineer Department and in Washington.

FINALLY.

In any case where the Chief of Engineers is in responsible executive control of work, say, with his left hand, and that hand be paralyzed, there is no being in the universe competent to prevent his immediately seizing control of the same with his right hand, as long as he is sensible and can so do; nor is there anybody competent to scold or criticize him, or relieve him of the obligation to safeguard the works and interests in his hands, before reporting to any officer or anybody else, in case of emergency, of which he is and must be the sole judge.

This is the general theory of an executive head.

In this case it took The Adjutant General 4 days to communicate the confirmation of an emergency action and 18 days to discover that the Secretary of War had confirmed an "unnecessary and unwarranted" act of the Chief of Engineers—a complete justification in itself of the immediate action by the Chief of Engineers in emergency.

River and harbor and other construction works of the Corps of Engineers are under direction and control of the Secretary of War and the Chief of Engineers, and The Adjutant General has nothing to do with them.

W. L. MARSHALL, *Chief of Engineers.*

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WAR DEPARTMENT,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, October 30, 1909.

The ACTING SECRETARY OF WAR.

SIR: I beg leave to submit the following report upon the questions referred to this office for opinion in your indorsement of the 20th instant. Before proceeding to the discussion it is proper to say a word in respect to the functions of the several staff departments which have been established from time to time by Congress with a view to assist the Secretary of War in the performance of his duties.

Each of the staff departments which were recognized and continued in the general reorganization act of February 2, 1901 (31 Stat. L., 748), was originally established by statute for the performance of certain specific duties. The duties with which they are charged are indicated in part by the titles of the several departments and in part by the officers created with a view to their performance. The establishment of an adjutant general's department, for example, indicated an intention on the part of Congress to provide an agency or instrumentality for the performance of the duties of an adjutant general which were well known and understood at the date when that department was established. In some cases the Engineer, Quartermaster's, and Subsistence Departments, for example, duties differing from or additional to those indicated by their titles have been expressly imposed by law. The General Regulations of the Army also prescribe duties to be performed by the chiefs of the several staff departments, and some of these general regulations prescribe, to some extent, the relations that have been established with a view to govern the heads of such departments in their relations to each other and to the Secretary of War.

The duties of The Adjutant General are those indicated as pertaining to that office by its title. Executive regulations in furtherance of the statute have been framed specifying in considerable detail the precise duties with which The Adjutant General of the Army is charged. These are set forth fully in paragraph 777 of the Army Regulations, which provides that—

"The Adjutant General's Department is the department of records, orders, and correspondence of the Army and the militia.

"The Adjutant General is charged, under the direction of the Secretary of War and subject to the supervision of the Chief of Staff in all matters pertaining to the command, discipline, or administration of the existing military establishment, with the duty of recording, authenticating, and communicating to troops and individuals in the military service all orders, instructions, and regulations issued by the Secretary of War through the Chief of Staff; of preparing and distributing commissions; of compiling and issuing the Army Register and the Army List and Directory; of consolidating the general returns of the Army; of arranging and preserving the reports of officers detailed to visit encampments of militia; of preparing the annual returns of the militia required by law to be submitted to Congress; of managing the recruiting service, and of recording and issuing orders from the War Department remitting or mitigating sentences of military convicts who have been discharged from the military service.

"The Adjutant General is vested by law with the charge, under the Secretary of War, 'of the military and hospital records of the volunteer armies and the pension and other business of the War Department connected therewith' and of the publication and distribution of the Official Records of the War of the Rebellion. He also has charge of the historical records and business of the permanent military establishment, including all pension, pay, bounty, and other business pertaining to or based upon the military or medical histories of former officers or enlisted men.

"The archives of The Adjutant General's Office include: All military records of the Revolutionary War; the records of all organizations, officers, and enlisted men that have been in the military service of the United States since the Revolutionary War; the records of the movements and operations of troops; the medical and hospital records of the Army; all reports of physical examination of recruits and all identification cards; the records of the Provost Marshal General's Bureau; the records of the Bureau of Refugees, Freedmen, and Abandoned Lands; the Confederate records, including those pertaining to the legislative, executive, and judicial branches of the Confederate government.

"Upon the muster out or discharge of volunteers or militia from the service of the United States all the records that pertain to them and that have not

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already been filed in The Adjutant General's Office will be transferred to and filed in that office.

"The Adjutant General takes such steps as are necessary to complete or correct the records in his custody and answers all calls or inquiries that are answerable from those records and that do not require administrative action by other bureaus of the War Department. (Par. 777, Army Regulations, 1908.)"

That the duties so prescribed have continued without substantial change for nearly 75 years is indicated by the corresponding requirements of the Army Regulations of 1835, which provide that:

"The Adjutant General is the channel through which are issued all orders emanating from the headquarters of the Army and all regulations necessary to be communicated to the troops. He is charged with the details of the service; with the record of all military appointments, promotions, resignations, deaths, and other casualties, as well as the inventories of the effects of deceased officers and soldiers; with the registery, making out, and distribution of all commissions of the Army and of the Militia of the District of Columbia; with the safe-keeping of the monthly returns of regiments and posts, and muster rolls of companies; the annual returns of the militia; the proceedings of general courts-martial and the records of the War Department which relate to the personnel of the Army; with the duties connected with the recruiting service, and the enrollment of all enlisted soldiers, showing the description, date of enlistment, discharge, desertion, death, and everything connected with their military history; with examination of all applications for pensions previously to their being sent to the Pension Office; and, finally, with the making out of the annual returns of the Army and the militia of the several States and Territories, and the publication of the annual Army Register. (Par. 1, Art. XLI, Army Regulations of 1835.)

It is proper to say, also, that the questions in reference arose in the ordinary administration of the department, a matter which is entirely in the hands of the Secretary of War, as the representative of the President in the conduct of military affairs. As it is practically impossible for a cause of action to arise of a character to require adjudication by the courts in the ordinary and habitual relations between the Secretary of War and the heads of the several staff departments, there are not precedents, in the usual acceptation of that term, which would assist in the determination of the questions referred to this office for opinion; and in passing upon the case decisive weight must be attributed to the approved practice of the department for the last 75 years in respect to the functions of The Adjutant General and his relations to the several staff departments and to the Army a large.

It is an essential incident of departmental administration that there should be some office in which the action of the Secretary of War, in respect to the duty to which officers of the Army are assigned, shall be made a matter of official record; and that office should also be charged with the preparation and submission to the Secretary of War of orders changing the station of officers or appointing them to particular duties. The Adjutant General, from the nature of his office, constitutes the channel of communication between the heads of departments and the Secretary of War in such cases and in his office the record of the action of the Secretary thereon is made a matter of permanent record.

With the disbursement of appropriation and with the relations between the heads of the several staff departments and their subordinates in matters relating to the performance of the duties with which they are charged by law not involving changes of station or affecting other interests than those committed by law to a particular department of the staff for execution, The Adjutant General has nothing to do. The requirements of the regulation in that regard are plain and prescribe that:

"Correspondence between an officer of a staff corps or department and the chief of the War Department bureau in which he is serving, which does not involve questions of administrative responsibility within the supervision of commanding officers outside that staff corps or department, nor relate to individual interests or status of a military nature requiring the action of authority outside that staff corps or department, and which is concerned exclusively with the business of that staff corps or department, will pass directly. All business emanating from the bureaus of the War Department requiring the action of higher authority will be submitted to the Chief of Staff for his consideration, either orally in person or in writing through The Adjutant General of the Army. In all cases the action of higher authority thereon will be communicated in writing by The Adjutant General of the Army to those concerned. Matters

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however, of a purely civil nature will be submitted by chiefs of bureaus directly to the Secretary of War unless otherwise required by their subject matter. (Par. 789, Army Regulations of 1908.)"

The necessity of such a central agency as that above described is apparent when the enormous volume of administrative work with which the War Department is charged is considered. As a result of such an orderly disposition of the business of the department as is contemplated in the foregoing extracts from the General Regulations of the Army, it is possible for the Secretary of War to know at all times the exact stations of all officers of the Army and the nature of the duty upon which they are employed. He is also able to call for the entire record of a particular officer from the date of his original appointment to the Army, and in the operation of the existing system of efficiency reports, which are matters of record in The Adjutant General's Office, he is enabled to call for the record showing not only the nature of the duty with which a particular officer is charged but the manner in which that duty is performed, together with an authoritative estimate of the capacity and adaptability of the officer along several lines of professional activity.

It should also be borne in mind that several important enactments of Congress require that the methods of administration above indicated should be adhered to, and that a central bureau of record in respect to the stations, duties, and movements of commissioned officers of the Army should be constantly maintained. Such are the acts of July 29, 1876 (19 Stat. L., 102), and March 2, 1901 (31 Stat. L., 902), regulating the pay status of officers on cumulative leave; the act of March 2, 1901 (31 Stat. L., 903), allowing additional pay for foreign service; sections 1243 and 1244 of the Revised Statutes, and the acts of June 30, 1882 (22 Stat. L., 117), March 3, 1883 (22 Stat. L., 457), February 16, 1891 (26 Stat. L., 763), etc., governing compulsory retirement, retirement for age and the retirement of officers at fixed ages or after specified periods of service.

The duties of the Engineer Department, in respect to the construction, maintenance, and operation of canals and works of river and harbor improvement, together with their work in connection with fortifications and seacoast defenses, are carried on under the direction of the Secretary of War and the Chief of Engineers, whose authority in respect thereto is measured by the enactments of Congress which prescribe their duties and responsibilities in that regard. It is only when the station of an officer is changed, or a leave of absence is granted, or a question of retirement is presented, that The Adjutant General becomes charged with the performance of certan dutes respecting the record sides of the several acts noted. It is believed that the necessity for the keeping of such official records and the several details of administration which are necessarily incident thereto have been made apparent.

The following are the facts which furnished an occasion for the inclosed representations of the Chief of Engineers. Maj. McIndoe, who had been assigned to duty by the Secretary of War in charge of the engineer district of Portland, with station at Portland, Oreg., fell ill with typhoid fever; the case was a serious one, involving his relief from the status of active duty. Maj. Cavanaugh, who had been similarly assigned to duty in the office of the Chief of Engineers in Washington, was in Portland on leave of absence when Maj. McIndoe became ill, and communicated the facts in connection with Maj. McIndoe's illness to the Acting Chief of Engineers who, on September 3, 1909, directed Maj. Cavanaugh, by telegraph, to relieve Maj. McIndoe of his duties as engineer in charge of the Portland district, and to take over the public funds in his possession.

This action was reported to The Adjutant General, by telephone, about an hour before the close of official business on the same day. Col. Abbot, the Acting Chief of Engineers, was advised to make a full report of the case for submission to the Secretary of War. This report was furnished to The Adjutant General on the same day, but was not received at the mail room of The Adjutant General's Office until the close of office hours on the day following (Sept. 4). The War Department was closed on September 5 and 6 (Sunday and Labor Day), and on September 7 the letter of the Acting Chief of Engineers was submitted to the Acting Chief of Staff, who, in the name of the Secretary of War, directed approval of the action taken.

As the telegraphic correspondence between Maj. Cavanaugh and the Acting Chief of Engineers was not inclosed in the latter's report of September 3, and this correspondence constituted an essential part of the case already submitted to the Acting Secretary of War, copies were called for by The Adjutant Gen-

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eral on September 8, and were promptly furnished. As some important omissions, in the matter of dates, etc., were disclosed in the copies supplied to The Adjutant General, the originals of the telegrams to Maj. Cavanaugh and the Acting Chief of Engineers were called for by The Adjutant General, together with information in respect to certain correspondence between the former and the Lighthouse Board in respect to the substitution of Maj. Cavanaugh for Maj. McIndoe as the agent of the Lighthouse Board in the district of Portland. It is sufficient to say, as to this aspect of the case, that the action taken by The Adjutant General was in conformity to the established practice of the department, and the action proposed to be taken upon the case presented by the Acting Chief of Engineers was submitted in each case to the Acting Chief of Staff and to the Assistant Secretary of War, or to both of those officers, and their directions in respect to such action were taken by an officer of The Adjutant General's Department and made a matter of official record.

The executive regulations applicable to the case, under which The Adjutant General acted in calling for information in respect to the relief of Maj. McIndoe and the assignment of Maj. Cavanaugh, are embodied in paragraph 777 of the Army Regulations, which provides that:

"* * * The Adjutant General is charged, under the direction of the Secretary of War, and subject to the supervision of the Chief of Staff in all matters pertaining to the command, discipline, or administration of the existing military establishment, with the duty of recording, authenticating, and communicating to troops and individuals in the military service all orders, instructions, and regulations issued by the Secretary of War through the Chief of Staff * * *. (Par. 777, Army Regulations, 1908.)"

The special reference which was necessary to complete the case for purposes of record and for submission to the Secretary of War, through the Chief of Staff, was authorized by the following requirement of executive regulations:

"The submission of matters to the Secretary by the Chief of Staff will be in person. Before presentation to either the Secretary or the Assistant Secretary the cases should be completed by obtaining the necessary recommendation, reports, or information from the bureaus of the department, or the military authorities outside of the department, and to this end the Chief of Staff is authorized to call therefor 'By order of the Secretary of War.' Paragraph 3, Order (E) of the Secretary of War of April 14, 1906."

The question presented in your indorsement of the 20th instant can now be discussed. First, an expression of opinion is desired as to the following question:

"1. Did the Acting Chief of Engineers act within his rights when directing Maj. Cavanaugh to temporarily relieve Maj. McIndoe?"

The assignment of officers of the several staff departments to stations is ordered by the Secretary of War, upon the applications of the heads of the several staff departments which are submitted to the Secretary of War through The Adjutant General in the operation of paragraphs 769, 787, and 789 of the Army Regulations. The orders of the Secretary of War directing such changes, instructions, or assignments are issued through The Adjutant General. In the case in reference Maj. McIndoe was assigned to duty as engineer officer of the Portland district by the Secretary of War on the recommendations of the Chief of Engineers. Maj. Cavanaugh was similarly assigned by the same authority to duty in the office of the Chief of Engineers in this city. As the assignments were made originally by the Secretary of War, changes in such assignments could only be made by the same authority; or, to state the matter in somewhat different language, a change of station or an assignment in the case of a staff officer can only be accomplished in pursuance of an instrument purporting to be an order of the Secretary of War, and a change in such station can only be made in the operation of an instrument of equal dignity and authority. It is therefore the opinion of this office that the first questions should be answered in the negative, that the Chief of Engineers did not act within his rights in directing Maj. Cavanaugh to take station in Portland, Oreg., and relieve Maj. McIndoe of his duties in charge of the engineer district of Portland.

The second question is:

"2. Has the Chief of Engineers authority without orders from the Secretary of War to assign to or relieve from duty, or order from point to point, such officers of his corps as are engaged (*a*) in river and harbor work; (*b*) upon fortification work?"

It is the opinion of this office that this question too must be answered in part in the negative. The case presented in the papers in reference involved the

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relief of one officer who had been assigned to a station of duty by the Secretary of War. It has been seen that, where an officer has been so assigned, his relief can only be accomplished in the operation of an order of equal authority and sanction; that is, the relief of Maj. McIndoe and the assignment of Maj. Cavanaugh to duty at Portland, Oreg., could only be accomplished, under the existing and long-established practice of the department, in the operation of instructions issuing in the name of the Secretary of War.

A different case is presented in the operation of paragraph 194, Engineer Regulations of June 26, 1902, which provides that—

"194. *Prior order or subsequent approval necessary.*—Travel must be covered by a specific order issued prior to the commencement of the journey. Such orders will be issued only where the journey is on account of and indispensable to the public service.

"Where urgent public duty requires travel without previous orders, the case must be reported without delay to the proper superior, whose approval, in subsequent orders, shall be accepted in lieu of a previous order in the case.

"In every case where the necessity for a journey on duty connected with any of the works of the Engineer Department can be foreseen in time to receive an answer before the desired date of departure, the order contemplated in the above extract will be asked for.

"In any case where the necessity for a journey can not be foreseen in time to receive an answer before the desired date of departure, the journey will be made and approval will be requested, as stated above.

"In the former case the intended date of departure will be stated approximately. In the latter case the dates of departure and return to station, and the fact that the necessity for the journey could not have been foreseen will be stated, and in either case the reasons for the journey will be set forth in such manner that the Chief of Engineers may judge of the necessity for the journey."

As subsequently amended in the operation of Circular 46, Corps of Engineers, of 1906, subparagraph 1 of paragraph 194 reads as follows:

"194–1. *Prior authority required except in extreme emergencies.*—In view of the requirements of Army Regulations 1313, as modified by General Order 144, W. D., 1906, officers of the Corps of Engineers will, in general, await orders or telegraphic authority before beginning official journeys for which they expect to ask mileage. The telegraph may be used, by day or night, in asking orders in cases justifying the cost. In extreme emergencies the journey may be made without prior orders, but then a full report clearly showing not only the urgency of the journey, but also the impossibility before starting of securing telegraphic authority, must be submitted; unless the report be such as to satisfy the Chief of Engineers on the latter point, approval of the journey will not be given. (Cir. 46, C. of E., 1906.)"

It will be noted that the foregoing requirements of regulations have exclusive application to cases of emergency and are also restricted in their operation to cases in which the emergency is such that the necessity for the journey "can not be foreseen in time to receive an answer before the desired date of departure." In the case under discussion no such case of emergency existed. Maj. McIndoe's illness was unexpected, but the Chief of Engineers was apprised by telegraph of his condition, which was such as to suggest immediate action. The telegram was received during office hours on September 3, 1909, when The Adjutant General, the Acting Chief of Staff, and the Assistant Secretary of War were present in their offices in the War Department building and in a situation to attend to any matters of public business that might be presented to them. It will also be observed that the regulations last above cited have relation, not to changes of station and duties, but to travel to be performed on the public business.

It is therefore the opinion of this office that, for the reasons above stated, it is beyond the authority of the Chief of Engineers to assign officers of the Corps of Engineers to duty, or to relieve them from an existing assignment, without the order of the Secretary of War. The authority of the Chief of Engineers to order officers of his corps from point to point, who are engaged in the construction of fortifications or in the establishment or maintenance of works of river and harbor improvement, depends upon other regulations than those which controlled the Acting Chief of Engineers in his action in respect to the relief of Maj. McIndoe and the assignment of Maj. Cavanaugh to duty in Portland, Oreg.

It is proper to say a word in conclusion in respect to the power of the Chief of Engineers to authorize officers of the Engineer Corps to travel on business

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connected with the prosecution of river and harbor improvements and other civil works which are intrusted to the Corps of Engineers for execution. It will be observed that the statutes and regulations, presently to be cited, relate to orders directing travel, and not to orders directing changes of station and duty, which, as has been seen, are issued by the Secretary of War upon the recommendation of the head of a staff department, which is submitted to the Secretary of War through The Adjutant General, by whom the necessary orders are prepared and in whose office the orders of the Secretary of War, and the papers upon which such orders are based, are made the subject of pemanent official record.

The following enactments of Congress and decisions of accounting officers, with the Executive regulations in furtherance thereof, govern in all matters relating to the travel of officers of engineers in connection with civil works, including the construction and maintenance of canals, bridges, dams, and works of river and harbor improvement. It is a fundamental rule in the disbursement of the appropriations of Congress to regard expenses incurred in travel, which is necessary in the construction of a particular work or the expenditure of a particular appropriation, as a proper charge against the work in connection with which the travel is undertaken. It has been held by the Comptroller of the Treasury that:

"The mileage allowance of officers of the Corps of Engineers when traveling on duty connected with river and harbor improvements, being an expense necessarily incidental to and incurred on account of such work, is properly payable from the appropriations therefor and not from the appropriation 'Pay of the Army,' at the special rates prescribed by Army acts for mileage payable from said appropriation." (III Dig., 2d Comp. Dec., par. 290.)

Such is the case also in respect to travel performed in connection with other civil works not relating to the military establishment—the Panama Canal, for example, the construction and maintenance of which is committed, by statute or by Executive discretion, to the Secretary of War and the Chief of Engineers. To that end the General Regulations of the Army contain the following requirement:

"An officer traveling on duty in connection with public works (not arsenals, military surveys, or explorations) will receive travel allowances from the appropriation for the work; but if there be no appropriation he will receive mileage from the Pay Department." (Par. 1315, Army Regulations of 1908.)

The act of September 16, 1890, provides that:

"In determining the mileage of officers of the Corps of Engineers traveling without troops on duty connected with works under their charge, no deduction shall be made for such travel as may be necessary on free or bond-aided or land-grant railways." (Sec. 15, act of Sept. 16, 1890, 26 Stat. L., 456.)

The current act of appropriation for the support of the Army contains the following requirement:

"ENGINEER SCHOOL, WASHINGTON, D. C. * * * For travel expenses of officers on journeys approved by the Chief of Engineers and made for the purpose of instruction: *Provided*, That the traveling expenses herein provided for shall be in lieu of mileage and other allowances; * * * ." (Act of Mar. 3, 1909, 36 Stat. L., 749.)

The Engineer Regulations approvied by the Secretary of War on June 26, 1902, and March 2, 1906, contain the following requirements:

"5. Journeys to be performed by officers of the Corps of Engineers on duty connected with river and harbor work and with fortification work may be ordered by the Chief of Engineers or approved by him when the emergency requiring the journey does not permit of obtaining an order previous to making the journey. In the latter case the officer should certify upon the mileage voucher 'that urgent public duty required the journey to be performed without previous orders,' and the voucher must be accompanied by the approval of the journey by the Chief of Engineers or superior officer.

"16. The orders of the senior officer of the board shall be authority for journeys made by its members and associates and for the necessary expenditures incurred by the board in pursuance of its duties, but the authority of the Chief of Engineers must be obtained by the senior officer of the board for all journeys made by the board or members thereof to localities other than the usual place of meeting.

"Payment of mileage and for these expenditures shall be made from the appropriation for works of river and harbor improvement when the duty is connected with such works.

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"192. *Necessity for travel.*—Applications to the Chief of Engineers for orders to travel, in addition to the requirements of General Orders, No. 3, 1880, H. Q. C. of E. (194, 195), will contain a certificate of the following form: 'This travel is necessary for the public service.' (Par. 1, G. O. 6, C. of E., 1882.)

"193. *General authority not to be given.*—The regulations respecting orders to travel on duty contemplate that, as a rule, an order shall cover a single journey only. General authorities to officers to visit their works or make other journeys at their discretion will not be issued. (Par. 2, G. O. 6, C. of E., 1882.)

"194-1. *Prior authority required except in extreme emergencies.*—In view of the requirements of Army Regulations 1313, as modified by General Order 144, War Department, 1906, officers of the Corps of Engineers will, in general, await orders or telegraphic authority before beginning official journeys for which they expect to ask mileage. The telegraph may be used, by day or night, in asking orders in cases justifying the cost. In extreme emergencies the journey may be made without prior orders, but then a full report clearly showing not only the urgency of the journey but also the impossibility before starting of securing telegraphic authority must be submitted; unless the report be such as to satisfy the Chief of Engineers on the latter point, approval of the journey will not be given. (Cir. 46, C. of E., 1906.)

"195. *Visits to works on same general route.*—Visits to works upon the same general route of travel will be made, as far as practicable, in the same journey, and separate orders to visit such works should not be asked for except in cases where the interests of the service make separate journeys indispensable. (G. O. 3, C. of E., 1880.)

"1907. *Payment of mileage.*—Officers of the Corps of Engineers, or those on engineer duty, traveling on service connected with works of public improvement which are not of a military nature, will be paid their travel allowances from the special appropriations for the work. When traveling on duty connected with fortifications or on any other military duty the mileage will be paid by the Pay Department. (A. R. 1536, modified to date in accordance with decision of the Comptroller of the Treasury, published in Cir. 23, C. of E., 1905.)

"199. Citations and cross references:

"(*a*) As to travel on duty by officers, see Army Regulations 68–75.

"(*b*) For general provisions regarding mileage for officers traveling on military duty, see Army Regulations 1307–1326, paragraph 1316, amended by General Order 189, War Department, 1904, and paragraph 1320, by General Order 135, War Department, 1905.

"(*d*) As to orders by the Chief of Engineers for travel, or subsequent approval thereof by him, see E. R. 5.

"(*e*) As to travel by members and associates of the Board of Engineers, see E. R. 16.

"(*h*) As to visits by officers to works within and works without their districts, see Circular 6, Chief of Engineers, 1896, 517, 518.

"517. Visits by officers within their districts. Officers are authorized to visit works in their charge and within their districts as often as, in their opinion, the good of the work requires; but it should be noted on personal reports whether such visits are made with or without orders. (Cir. 6, C. of E., 1896.)

"518. Visits by officers outside their districts. Officers are not authorized to visit other works or go beyond the limits of their districts or absent themselves on any duty not immediately connected with the official work in their charge without special and proper authority, except to take advantage of an authorized leave or under the provisions of Army Regulations 64. (Cir. 6, C. of E., 1896.)"

Very respectfully,

GEO. B. DAVIS,
Judge Advocate General.

[Memorandum for the Secretary of War.]

WAR DEPARTMENT,
Washington, November 4, 1909.

The Acting Chief of Engineers, deeming that an emergency existed, issued an order directly and followed it up, in accordance with regulations, by obtaining through The Adjutant General the approval of his action by the Secretary of War.

The Adjutant General, on sending for the necessary papers to complete the files in his office, was of the opinion, in so far as the papers showed, that an

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emergency did not exist and that the order should have been issued through the proper channel as provided by the regulations.

The matter was submitted to the Acting Chief of Staff and the Acting Secretary of War, and the attention of the Acting Chief of Engineers was called to the fact that his action was, so far as the facts shown were concerned, unwarranted and unnecessary, and it so appeared so far as shown by my papers in the case at that time.

The Chief of Engineers then submitted a statement from the Acting Chief of Engineers, which amplified the record, going to show that the Acting Chief of Engineers had acted for the best in his belief and that it was only a question of judgment as to whether what he had done was not necessary and warranted; and, in view of the facts submitted by him, it seems fair to believe that he acted for the best and that the question was simply a difference of opinion. Had this been the only material in the indorsement of the Chief of Engineers it would have closed the matter, which was of very little consequence. Unfortunately the Chief of Engineers considered the indorsement referred to as a reprimand, which it evidently was not, and submitted a very intemperate and unnecessary statement reflecting upon The Adjutant General and introducing matters that were not germane to the case, the result of which was that The Adjutant General stated his position in a most caustic indorsement, embodying therein much that was unnecessary.

The matter was then submitted to the Acting Chief of Staff, who reported upon the matter most temperately and explained the cause for his action in approving the indorsement in question. No possible benefit to the service can be gained by submitting these indorsements to the Chief of Engineers and it is recommended that the matter be laid aside, except in so far as the paragraph in which the Chief of Engineers states that he was under no obligation to seek an order through The Adjutant General from the Secretary of War to take the action which he did. This necessitated a decision as to the powers of the Chief of Engineers regarding his subordinate officers. The papers were accordingly submitted to the Judge Advocate General, and he sustains the contention of The Adjutant General entirely in this particular case. It is recommended that no further action be taken, except possibly to issue a regulation defining the powers of the Chief of Engineers as regards his authority as to the issuance of orders to his subordinates. This can be stated, apparently, in a few words, as he seems to be limited to the issuance of orders direct to his officers, to those who are engaged on civil work and whose expenses and transportation are paid from the appropriation made for such civil work. In all other cases involving change of station or duty he is subject to the same regulations as those imposed upon other chiefs of bureaus.

(No signature.)
Assistant Secretary of War.

Your committee has thus gone very fully into an examination and explanation of these papers because of the use which has been made of garbled extracts from them to get rid of the services of one of the most accomplished and useful officers of the Army—an officer who for more than 25 years has rendered inestimable service to the country, and by that service has saved much money and time, a service which has been recognized time and again by Congress; and in the opinion of your committee he has been guilty of no act which justifies the letter of the Secretary of War and resulted in the country's loss of his activities when they were most needed. Anyone who will give the same attention to these papers which we have must inevitably come to the conclusion that Gen. Ainsworth was blameless in every one of the instances cited against him by the Secretary of War as evidences of official misconduct. He acted in compliance with orders of superior authority. He occupied a most responsible position; he had at his command information not obtainable from any other source concerning the subjects under consideration, and it was his imperative duty to state his own knowledge and the results of his own experience as to these subjects, regardless of whether his views coincided with those of others or

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not. This he did fearlessly, frankly, and forcibly, and in doing so he gave no just cause of offense to any person, either superior, equal, or subordinate in rank or station, unless that person be one who regards the expression of an honest difference of opinion as an offense, or unless he be the unreasonable advocate of a proposition the worthlessness or danger of which has been exposed. The experience of this committee makes it regret all the more the absence of a fearless and honest spirit from the Army at a time when such attributes are so essential to aid it in coming to right conclusions on the many vexed problems which are now and will in the near future be placed before it for solution.

Your committee can only conclude from the record that these charges and accusations had their origin in prejudice, if not vindictiveness, and a determination to drive Gen. Ainsworth from active service, and have nothing to support them but bare assertion coupled with misrepresentation and the suppression of the truth. It is incredible to your committee that the Secretary of War or any *intelligent* adviser of his could have made these accusations in the honest belief that Gen. Ainsworth was guilty of any one of the offenses charged against him with such unnecessary vehemence and couched in such intemperate language. Some other reason must have actuated the Secretary of War in making them, and that other reason is not hard to find. Your committee, being familiar with all the different phases of the legislative features in the Army appropriation, bill can very readily account for this violent assault on Gen. Ainsworth. On May 17, 1911, in response to a summons from this committee, and not at his own suggestion, Gen. Ainsworth appeared before this committee for a hearing on the bill then pending to fix the term of enlistment in the Army at five years. He expressed himself frankly and freely in favor of the measure, and his reasons for favoring the bill were so cogent, so convincing, and so clearly stated as to carry conviction of their soundness to the minds of many if not to those of most of the members of the committee. Subsequently the War Department entered upon a campaign of bitter hostility against this measure—a campaign unprecedented in the history of such legislation; it used the newspapers, the Organized Militia, or such of them as it could influence, officers of the Army, enlisted men, and other means to influence Members of Congress. Notwithstanding all this opposition, the five-year enlistment plan was adopted by this committee and reported by it as a part of the Army appropriation bill.

The statement made by Gen. Ainsworth before the committee was included in full in the report accompanying that bill, and his views as thus set out in the report were generally regarded, and justly so, as the strongest arguments in support of the measure. He was also charged, although falsely so, with advocating to the committee, or some of its members, some of the other features of general legislation which were incorporated in the bill, and against which the War Department was conducting a campaign of opposition, although in the inception of the legislation the War Department had favored it. Clearly it was to the interest of those opposing these measures to discredit Gen. Ainsworth and his views. The opportunity seemed to present itself, for it was well known to every one concerned, the offi-

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cials of the War Department included, that the five-year enlistment plan and other general legislative provisions in the Army appropriation bill would come to a vote in the Committee of the Whole House on the state of the Union on February 15, 1912. On that day, as stated by the daily newspapers, the letter of the Secretary of War of February 14, relieving Gen. Ainsworth from the duties of his office, was served upon him. Soon afterward, if not before, a copy of that letter was in the hands of a Representative, who, in due time, offered it to be read on the floor of the House in the midst of an assault on the five-year enlistment provision, and on the heels of a fierce and bitter attack on Gen. Ainsworth. The copy of the letter was read after some delay and appears on pages 2218 and 2219 of the Congressional Record of February 15. The Member who offered it stated that it was a copy of the "original document," giving the reasons why Gen. Ainsworth had "within the last few hours" been relieved from duty. The reasons for rushing a copy of this letter to the House of Representatives and for the use made of it there are obvious. Thus a believable explanation is afforded, which the letter itself does not, as to why Gen. Ainsworth was relieved from the duties of his office.

In the opinion of your committee great and irreparable wrong has been done by the letter of the Secretary of War of February 14, 1912. Because of its high source, the accusations made in it will be accepted as true by the majority of those reading it, whereas few people will ever see or hear of this or any other exposure of its true character and design.

If in the history of this country there was ever a more flagrant abuse of official authority than that which was consummated when the letter in question was served on Gen. Ainsworth and copies of it given simultaneously to the world, this committee has never heard of it. And the worst feature of it was that this officer of long and distinguished service had no tribunal to which he could appeal with any hope of receiving justice or fair treatment. For the letter shows upon its face that both the President and the Secretary of War, and doubtless their immediate military advisers, had prejudged the case without giving Gen. Ainsworth any opportunity to present his side of it.

As to what Gen. Ainsworth did after being summarily relieved from the duties of his office, and as to his motives for doing it, this committee has no information except the statement which appeared in the public press to the effect that he voluntarily applied for retirement from active service upon the suggestion of a United States Senator, who had been assured by the President that the case would be closed and no action taken against him if he applied for retirement. At all events, it appears from a transcript of the military record of Gen. Ainsworth furnished this committee by the War Department that after more than 37 years' service he was retired on the 16th of February, 1912.

Your committee in making this report has been actuated solely by the desire to set out at length what seems to it to be the truth about the case, and to do justice to an officer of the Army, who for more than 25 years had remained at his post of duty, and had discharged faithfully and efficiently, as well as with unusual ability, the very responsible duties of his position. Indeed, every department of the Army to which he has been attached has been bettered by his treat-

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ment of it, and he leaves the service with the well-deserved plaudits of all fair and unprejudiced men.

This committee received from Gen. Ainsworth, nor from anyone in his behalf, no request or suggestion that this matter should be made the subject of any action by the committee. His views are unknown to this committee; but common justice dictated that this action should be taken, and that Congress should be informed of all the facts in the case.

APPENDIX I.

WAR DEPARTMENT,
Washington, February 14, 1912.

SIR: On the 15th of December last you were handed a memorandum directing you to submit to the office of the Chief of Staff your opinion on a proposition to abolish the present separate muster roll and to so modify the form of the descriptive list, the pay roll, and other organization returns as to enable those papers to include and perform the functions of the separate muster roll. A synopsis of the proposition and its purposes was contained in the memorandum, and you were directed, in case any features of the proposition were in your opinion inadvisable or impracticable, to give a statement showing in detail wherein it was so considered inadvisable or impracticable. The said proposition was being considered by the officers of the War College and of the General Staff, with my knowledge and by my authority, as part of an effort to simplify the system of keeping military records in the War Department, and was intended to be in harmony with the efforts now being made by the President, through the President's Commission on Economy and Efficiency, in the direction of simplification and reform. The memorandum recited on its face that it was given to you by my direction.

In reply to his order you submitted to the Chief of Staff on February 9 a memorandum dated February 3. In this paper you impugn the fairness and intelligence of the Secretary of War, under whose authority the proposition in question was submitted to you. You also criticize and impugn the military capacity and experience, the intelligence and fair-mindedness, and, finally, question the honor and good faith of the officers of the General Staff and the War College, whose plan you were directed to discuss.

Thus, in response to my direction that you submit your opinion upon a proposition, the ultimate decision as towhich rests with me, you say:

"In compliance with the second part of the accompanying call, the following statement is submitted, although it is recognized that it will be difficult if not impossible to formulate any statement that will carry conviction to anyone who is so unmindful of consequences, or so uninformed as to the needs of the Government and the public with regard to the matter in question, as seriously to propose to abolish one of the most important, if not the most important, of all the records of the War Department. However, the statement is submitted in the confident expectation that when other, if not wiser, counsels shall prevail and after experience with the proposed plan or any similar plan shall have shown the inevitable evil effects thereof, this statement will receive the consideration that may not be given to it now."

You say further, after quoting article 12 of the Articles of War:

"It is proposed in the accompanying memorandum of the Chief of Staff to evade this requirement of law by calling the pay rolls of June 30 and December 31 'muster and pay rolls,' entering thereon the data required by article 12, yet maintaining the monthly ceremony of muster. But the adoption of this proposal could hardly fail to be regarded generally as a mere subterfuge of a kind that would be scorned by honorable men in any of the relations of private life, and that would be most discreditable to a great department of the Government in its management of the affairs of the Nation."

And further:

"The proponents of the truly remarkable plan now under discussion have betrayed a lamentable lack of knowledge of the nature and uses of our so-called descriptive list, of which it is proposed that there shall be made but a single copy, which shall follow the soldier throughout his entire enlistment. If they

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had had, or had profited by, even a little service as company commanders in recent years, they would have learned that our descriptive list is primarily an organization record, and the only approach to a complete record of its men that any organization has."

And again:

"The cool assurance with which it is asserted in the memorandum that 'it would make no difference' if other data could not be obtained, 'such as a complete record of extra duty, special duty, detached service, etc.,' evidences such ignorance of the vital bearing that many of the data so lightly spoken of, but which, if lost, could never be supplied from any record source, have upon a multitude of pension and other claims that it would be a loss of time and effort to discuss the subject further here.

"There are other grave objections to the proposed plan that might be stated, but if those that have been pointed out are not sufficient to carry to the minds of those with whom the decision of this matter now rests, the conviction not only that the proposed plan is both illegal and impracticable, but that it is most inadvisable ever to intrust to incompetent amateurs the management of business that is of nation-wide importance and that can only be managed prudently, safely, and efficiently by those whom long service has made experts with regard to it, then it will be worse than useless to present further facts or arguments here."

This is not an isolated instance of insubordination and impropriety on your part, nor is it made in the absence of warning as to the necessary consequences of such an outburst. On the 5th of September last you submitted to me a memorandum in which you, by insinuation, charged the Chief of Staff with improper motives in his proposed action of relieving certain officers of the recruiting service. You stated in that memorandum:

"Col. Murray and Maj. Dugan were so unfortunate as to be compelled not long ago to appear before the Committee on Military Affairs of the House of Representatives for examination with regard to a bill that proposed to increase the enlistment period of the Army to five years. In response to questions addressed to them by the committee, they expressed views that were at variance with views subsequently expressed to the same committee by the Chief of Staff. Considerable publicity, for which Col. Murray and Maj. Dugan were in no wise responsible, was given by the press to this difference of opinion. And doubtless there are those who, not knowing or not believing that the Chief of Staff is too high-minded and conscientious to permit his official action to be influenced by such a matter, will be swift to conclude, if these two officers are relieved or superseded now, that the Chief of Staff is endeavoring to punish them because they gave testimony that may be regarded as damaging to his own, and that the solicitude now manifested in behalf of a few superfluous colonels, with none manifested in behalf of superfluous lieutenant colonels, is merely a pretext for a movement whose object is to annoy or humiliate certain officers connected with the recruiting service and to discredit the management of that service. * * *

"Of course, any such conclusion as that referred to here would be erroneous, but it is believed to be the part of wisdom not to give Congress, the public at large, or the Army any ground upon which to base it, at least at the present time."

I then, on September 19, wrote you from Huntington, Long Island, a personal letter of warning in respect to your conduct in submitting that memorandum, as follows:

"I only wish to add that I greatly regret and reprobate certain passages of your memorandum and of the letter which you sent me. Nothing is gained by suspecting or intimating ulterior motives on the part of those with whom we have to act in association. In an organization as large and complex as the War Department it is impossible that every action taken shall seem the wisest possible to all of the members of that department. Many orders must be given and steps taken which, to some bureau or some individual, seem ill advised and unfortunate. But in such cases and in all cases the President has a right to expect that all of the officers of the department will act as a unit, with faith in each other's motives even if they differ as to judgments. In no other way can the morals of the Army or its organization be maintained for a moment."

In considering whether these offenses against propriety on your part are merely exceptional cases of rudeness and ill temper, I find that they have become habitual on your part and have occurred under other administrations of the War Department and concerning other officers than those of the General

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Staff. I find that on March 25, 1911, in a memorandum rendered by you relative to certain recommendations that had been made by various officers of the Army directed toward the end of reducing unnecessary paper work in the administration of the military organization, you used the following language:

"All these recommendations are disapproved, with a few relatively unimportant exceptions hereinafter noted. Almost all of them show on the part of those making them a deplorable ignorance of or indifference to the requirements of law with regard to the rendition of these returns and rolls and the purposes for which they are rendered. Such ill-considered and impracticable recommendations afford convincing proof of the futility of calling upon officers of the Army generally for an expression of their views with regard to the paper work that they are required to perform."

The recommendations to which you in that memorandum thus referred had been made by 16 officers of the Army of experience and ability, including 3 department commanders and the Superintendent of the Military Academy.

On October 16, 1909, in speaking of another general officer in the War Department, the head of one of its most important bureaus, you used in an official document the following language:

"Life is too short to permit of wasting any portion of it in discussion with, or for the benefit of, anyone whose conception of the underlying principles of military administration is so hazy that he can advocate such a proposition seriously. A proposition of this kind would be regarded as remarkable if advanced by a State militiaman, and it is simply amazing when put forward by an officer of the Regular Army, even though his connection with the military side of that establishment be so remote as to be merely nominal."

Your present action, which, because of the prior warning received and the length of time consumed in the preparation of your present memorandum, must be deemed deliberate, is therefore but the culmination of a series of outbreaks evidencing such intolerance of subordination and such readiness to impugn either the motives or the intelligence of those with whom it is your duty to work in association as, if uncorrected, to destroy your usefulness in your present office. It is impossible that the business of the Government shall be properly conducted if official communications are made the occasion for contemptuous comments and aspersions upon fellow officers and for insolence to superiors. Under such circumstances self-respect would forbid that cooperation which is necessary to effective service. This is especially true in the military service, where due subordination and respect to superior officers is essential to the maintenance of discipline.

As I am myself apparently included in your latest attack, I have preferred to deem myself disqualified from judicial action thereon and have laid the matter before the President as Commmander in Chief. He directs that, pending consideration of the disciplinary measures to be taken, you be forthwith relieved from duty in your present office. You will therefore upon receipt of this order stand relieved of your duties in the office of The Adjutant General and will await further orders in this city. Col. H. P. McCain, adjutant general, has been directed to assume the duties surrendered by you.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

Maj. Gen. FRED C. AINSWORTH,
The Adjutant General, United States Army, Washington, D. C.

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RELIEF OF THE ADJUTANT GENERAL OF THE ARMY FROM THE DUTIES OF HIS OFFICE.

MAY 10, 1912.—Ordered to be printed.

Mr. PRINCE, from the Committee on Military Affairs, submitted the following

VIEWS OF THE MINORITY.

[To accompany H. Doc. 619.]

We deem it proper to make respectful protest against the method by which the paper purporting to be the report of the majority has been prepared and filed. Although it purports to give the views of a majority of this committee in a quasi-judicial review of the papers submitted by the Secretary of War, as a matter of fact it has never been considered or the evidence and facts fully discussed before a meeting of the committee. No member of the minority had seen the report before it was filed. And although the chairman obtained the authority of a majority of the committee to file a report on this matter, there has never been discussed before the committee even the general character of the report to be submitted, far less any consideration of the extreme statements made in the report actually filed. The authority of one of the House's most important committees should not be given to intemperate statements of a paper which has never been laid before that committee.

This is not the ordinary report accompanying a bill which has been discussed and passed upon by the committee, but it is in the nature of a quasi-judicial opinion upon questions of fact which have never been discussed or considered at any regular or special meeting of the committee.

On February 9 last The Adjutant General of the Army in response to a direction of the Secretary of War, conveyed through the Chief of Staff, filed a memorandum dated February 3. This memorandum contained statements which nobody, civilian or military, can read without recognizing that when addressed to a superior officer they were of a highly insubordinate character. On February 15, or six days afterwards, the Secretary of War, by an order made by direction of the President as Commander in Chief, relieved The Adjutant General

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from duty in his office and directed him to await further orders in Washington pending the consideration of disciplinary measures to be taken. The following day, February 16, The Adjutant General applied for retirement from the active list of the Army, and was immediately, on the President's order, placed upon the retired list. As is stated in the report of the majority, it was the general understanding at the time that The Adjutant General took this step in order to avoid a court-martial on charges of insubordination.

It is difficult to imagine facts which present a case more completely and solely within the jurisdiction of the Executive than the foregoing. By the Constitution the President is the Commander in Chief of the Army and Navy of the United States, and upon him rests the responsibility for the discipline of that service.

These papers show that the question of Gen. Ainsworth's conduct in submitting this memorandum of February 3 was submitted directly to the President, and that each step thereafter was taken by his orders. It is as completely beyond the province of this House or any of its committees to review his conduct in taking these steps as it would be beyond their jurisdiction to review his action in approving or setting aside the judgment of a court-martial. What would become of the discipline of our fighting force if Congress or its committees should deem themselves free to take up cudgels against the Commander in Chief on behalf of an officer whom he has disciplined? How long would the morale of the Army or Navy last under such circumstances? Such a proposition needs only to be stated to have its absurdity demonstrated. We submit, therefore, that this report on its face shows itself to be a wholly unconstitutional attempt to assert powers not within the jurisdiction of this committee.

But inasmuch as the report of the majority has assumed to go into the facts of the case, we deem it proper to set out our dissenting views as to these facts, even though we believe that the entire subject is wholly outside the province of this committee.

No one doubts that Gen. Ainsworth is an able officer or that he has rendered efficient service in his bureau. But, on the other hand, no fair-minded man can read the papers submitted to this committee without being convinced that his outbursts of intolerance toward other officers must have greatly impaired the usefulness of his work. Military discipline is built upon a dual foundation of respect toward superiors and courtesy toward subordinates. The record contains plentiful illustrations of Gen. Ainsworth's shortcomings in both respects. The attempted defense offered in the report of the majority that in his last memorandum of February 3 Gen. Ainsworth intended to criticize, not the Secretary of War but merely two junior officers, shows a complete misapprehension of these elementary requirements of military life. Even if that had been his intent, he had no right to couch his criticism in terms of disrespect and discourtesy, to inveigh against alleged ignorance, and to impute dishonorable motives or methods.

But the proposition to modify the muster roll had been submitted to him by the express order of the Secretary of War, who states that he was personally cognizant of the pendency of the proposition, and who, under the law, personally had the final decision in the matter. Gen. Ainsworth had no right to assume that it came from junior officers, far less to criticize its supposed origin or source. It was his

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business to answer it fairly and courteously and respectfully on its merits. The very defense suggested assumes in itself an additional breach of discipline.

A consideration of the entire record makes it clear to us that the Adjutant General was not unfairly treated. There was no "garbling" of evidence or distortion of language. On the contrary, the record shows that the Secretary of War went to almost the extreme of leniency. The letter of September 19, from Huntington, was couched in language of friendly caution; and, even after the repetition of the offenses in the memorandum of February 3, the Adjutant General was allowed to retire without a court-martial.

While we regret that a long and faithful service should have so terminated, the officer, who virtually admitted his fault by his unwillingness to submit his conduct to a court composed of his peers, can not now complain of being badly treated. The paramount interest which must never be lost sight of is the morale and efficiency of the Army. It would, in our opinion, be a most unfortunate thing for the discipline of our military establishment if such language and temper as this record discloses should be condoned or extenuated.

GEO. W. PRINCE.
JULIUS KAHN.
JOHN Q. TILSON.
BUTLER AMES.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 512.

RELIEF OF SCIENTIFIC INSTITUTIONS OR COLLEGES OF LEARNING.

APRIL 9, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KITCHIN, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. R. 16690.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 16690) for the relief of scientific institutions or colleges of learning for violating section 3297 and amendments thereto of the Revised Statutes, having had the same under consideration, unanimously report it back to the House without amendment and recommend that the bill do pass.

The committee have carefully investigated the objects and purposes of H. R. 16690. Hearings were conducted on it March 13, 1912, at which the Commissioner of Internal Revenue and others having knowledge of the subject submitted evidence. It is found that under section 3297 and amendments thereto of the Revised Statutes the Secretary of the Treasury is authorized to permit certain designated scientific institutions of learning to withdraw free of tax from bonded warehouses alcohol to be used for the purposes recited in the statutes. The statutes provide that this alcohol shall be used for scientific and experimental purposes and in chemical laboratories. This law was enacted prior to the time that denatured alcohol was allowed to be handled free of tax, and under the ruling of one of the Secretaries of the Treasury, some 20 years ago, it was construed that permission to use alcohol in the chemical laboratories permitted the institution to take the alcohol into the laboratories and there denature it and then use the alcohol thus denatured for general hospital purposes.

Under an investigation of the Commissioner of Internal Revenue, made about one year ago, it was discovered that many of the hospitals construed to be institutions of learning were using alcohol secured from the bonded warehouses tax free in the natural state, without denaturing it, as required by law.

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This violation of the law subjected these institutions to severe penalties, amounting to twice the tax on the entire quantity of alcohol withdrawn by them from bond. From the testimony taken by the committee it is evident that the alcohol was used for authorized purposes, but unintentionally in a manner contrary to the statutes. The enactment of this relief measure, according to the Treasury Department, will entail only a trifling loss in the revenue, and the Secretary of the Treasury and the Commissioner of Internal Revenue are both of the opinion that the past liabilities of these institutions, on account of the violations described, should be canceled. Furthermore, the department has established such regulations as will make future violations practically impossible, and in view of all of the conditions the committee recommend the passage of the bill.

APPENDIX.

[H. R. 16690, Sixty-second Congress, second session.]

A BILL For the relief of scientific institutions or colleges of learning having violated sections thirty-two hundred and ninety-seven and thirty-two hundred and ninety-seven a of the Revised Statutes and the regulations thereunder.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue is authorized on appeal to him made to abate, remit, and refund all taxes or assessments for taxes the liability for which is asserted against any scientific institution or college of learning on account of any alcohol withdrawn from bond free of tax in accordance with the provisions of sections thirty-two hundred and ninety-seven and thirty-two hundred and ninety-seven a, Revised Statutes, and not used as authorized by the above-mentioned law and regulations thereunder: *Provided*, That no assessment made of tax imposed shall be abated or refunded as to any alcohol so withdrawn and used for beverage purposes: *And provided further*, That all applications for relief under this act shall be filed on or before July first, nineteen hundred and twelve, and no liability incurred on or after January first, nineteen hundred and twelve, shall be relieved against hereunder.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 513.

RECLAMATION AND DEVELOPMENT OF ANACOSTIA RIVER AND FLATS.

APRIL 9, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 22642.]

The Committee on the District of Columbia, to whom was referred H. R. 22642, report the same back to the House with the recommendation that it do pass.

The Board of Engineer Officers on the Reclamation and Development of the Anacostia River and Flats finds it absolutely necessary for the prompt and efficient prosecution of this work, for which appropriation has been made, that a determination should be reached at the earliest possible moment as to the ownership of the lands affected by the portion of the work immediately to be undertaken. The questions relating to these lands can only be determined by court procedure, and H. R. 22642 proposes a means by which a decision can most expeditiously be reached by conferring upon the Supreme Court of the District of Columbia broad equity jurisdiction to settle any and all questions which may arise as to contested rights of the United States. The procedure proposed is that which was successfully followed in the determination of titles involved in the Potomac Park improvement. The bill also provides for the settlement of any future questions along the river frontage of the District where the United States has a claim of rights.

The first section of the bill directs the Attorney General to bring suit to clear the title of the United States, the second section provides for notice to all persons who may be interested, the third section confers the necessary jurisdiction on the Supreme Court of the District of Columbia to enable it to proceed at once to the determination of the merits of the case or cases without delay from technical obstructions, the fourth section provides for a report to the Congress for its action as to any private rights which may be found to exist, the fifth section gives the United States or any other party

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the right of appeal to the Supreme Court of the United States, and the sixth section makes an appropriation for the necessary expenses of the litigation.

As an incident to the determination of title for the purpose of the Anacostia River reclamation, determination will also be had as to the title to the land over which it is proposed to construct the branch track to the navy yard. The construction of this track is now delayed by reason of the unsettled questions of title, which, in any event, will have to receive judicial determination.

The bill has no other effect than to provide a means to quiet title. The claims of the United States are opposed by conflicting claims of private parties to identical portions of this land, and the questions of title involved in such claims would themselves have to be settled by some form of judicial procedure before the engineers could safely proceed with the work of the reclamation of the flats of the Anacostia River. The inclusion of all the questions in one suit, or series of suits, will not only save time in the matter of the prosecution of the improvements but will reduce the ultimate cost of any land which it may be found necessary to acquire. All private rights are carefully safeguarded, while at the same time the United States has abandoned none of its sovereign rights in entering into litigation with private parties. The matter of the future disposition of the land is not affected and the question of the acquirement of private rights which may de determined to exist, as well as the disposition of the land confirmed in the United States, is left to the future action of the Congress.

The following letters requesting favorable action on this bill have been received from officials of the United States and of the District of Columbia charged with public duties relating to the lands affected by the bill as reported:

APRIL 3, 1912.

Hon. BEN JOHNSON, M. C.,
Chairman Committee on District of Columbia,
House of Representatives.

DEAR SIR: I regard it as extremely desirable that legislation should be passed at this session of Congress to enable the United States to assert its rights in the lands to be affected by the improvement of the Anacostia River. The bill, H. R. 22642, introduced by you on the 30th ultimo seems to be in the interests of the United States, and I strongly recommend a favorable report by your committee and the enactment of the bill.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General.

COMMISSION TO INVESTIGATE THE TITLE OF THE UNITED STATES TO LANDS IN THE DISTRICT OF COLUMBIA.

APRIL 3, 1912.

Hon. BEN JOHNSON, M. C.,
Chairman Committee on District of Columbia,
House of Representatives.

DEAR SIR: The investigations of the above commission seem to show that the United States has very valuable rights along the Anacostia River involving land which is occupied or claimed by private persons and which is needed for the purpose of the improvement of the Anacostia River. The questions involved can only be determined by a court of competent jurisdiction, and it is strongly recommended by this commission that H. R. 22642, conferring due jurisdiction on the Supreme Court of the District of Columbia in the premises, shall become a law at the earliest practicable moment. A favorable report by your committee and the passage of this bill by the House of Representatives are strongly urged. A similar bill has been favorably

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reported by the Senate Committee on the District of Columbia, and it is probable that final enactment of this desirable measure could be had shortly after action by the House of Representatives.

Respectfully,

GEO. W. WICKERSHAM,
Attorney General, Chairman.

APRIL 4, 1912.

MY DEAR CONGRESSMAN: Under the act of June 24, 1910, making appropriation for the naval service, the Secretary of the Navy is directed to enter into an agreement with the Philadelphia, Baltimore & Washington Railroad Co. for the construction, operation, and maintenance of a sufficient track connection from the main track of said railroad along the water front of the Anacostia River to connect with the track system of the United States navy yard, and that it shall be constructed wholly upon a right of way to be provided by the United States. It also provides that upon the execution of the above agreement the Secretary of the Navy acquire any part of the land necessary for yardage or right of way by purchase or condemnation and construct connections and switches necessary to the proper operation of the yard system in connection with said branch track.

Immediately after the passage of the above act this department took up negotiations with the railroad company to carry out the above law, but the railroad company refused to enter into a contract until the claims of various persons of different interests in the land necessary for this purpose could be determined. The work was consequently suspended until title in this land was acquired. There are so many claimants that independent action against each of them would result in long and tedious litigation. The provisions of H. R. 22642 seek to avoid this delay by providing for proceedings in equity under which all persons will be parties. The department believes this bill is in the interest of the United States and will clear the way for a proper execution of the act of June 24, 1910, and respectfully urges the enactment of the above-mentioned bill into law.

Faithfully, yours,

BEEKMAN WINTHROP, *Acting Secretary.*

Hon. BEN JOHNSON, M. C.,
Chairman Committee on the District of Columbia,
House of Representatives.

APRIL 3, 1912.

Hon. BEN JOHNSON,
Chairman Committee on the District of Columbia,
House of Representatives, Washington, D. C.

SIR: As chairman of the Board of Engineers on the Reclamation and Development of the Anacostia River and Flats, created by the act of Congress approved March 2, 1911, I have the honor to express the hope that the bill recently introduced by you in Congress, H. R. 22642, for the protection of the interests of the United States in certain lands and waters in the District, will soon become a law.

The board finds it difficult to make rapid progress in its work owing to the conflicting claims of ownership to much of the land bordering the Anacostia River. The passage of the bill introduced by you will, it is believed, not only enable the many cases of disputed title to be promptly settled, but will also preserve the ownership of the United States in much of the land along the river.

Very respectfully,

W. C. LANGFITT,
Lieutenant Colonel, Corps of Engineers,
Senior Member of the Board.

APRIL 3, 1912

Hon. BEN JOHNSON,
Chairman Committee on the District of Columbia,
House of Representatives.

DEAR SIR: The Commissioners of the District of Columbia have the honor to call your attention to the fact that as it is of very great importance that the questions affecting the title of the United States to lands along the Anacostia River should receive an early judicial determination it seems desirable that the bill (H. R. 22642) introduced by you on the 30th ultimo should receive favorable action by Congress at the earliest possible moment.

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As this bill proposes to deal only with questions of title, it is understood to involve no question as to the ultimate disposition of the land affected and seems to be a necessary preliminary to such decision.

As the completion of the improvements of the Anacostia River at an early date seems to be desirable in the interests of the District of Columbia, and as the bill above mentioned seems calculated to facilitate the work of these improvements, its early enactment seems most desirable.

Very respectfully,

BOARD OF COMMISSIONERS OF DISTRICT OF COLUMBIA,
By CUNO H. RUDOLPH, *President*.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 514.

AUTHORITY TO CHANGE NAMES OF STEAMERS "SYRACUSE" AND "BOSTON."

APRIL 9, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 22580.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 22580) to authorize the change of the names of the steamers *Syracuse* and *Boston*, having considered the same, report it to the House with recommendation that it do pass.

This bill is similar to the bill (S. 3580) to authorize the change of name of the steamer *Henry A. Hawgood*, reported to the House January 29, 1912 (Rept. No. 276, 2d sess. 62d Cong.) and afterward passed by the House; also other bills of like character and purpose that have passed the House.

Under the act of March 2, 1881, a special act of Congress is required for the change of name of a vessel not free from mortgage. The steamers *Syracuse* and *Boston* are encumbered and for that reason application is made to Congress for authority to change their names.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 515.

SALE OF OLD POST-OFFICE PROPERTY AT PROVIDENCE, R. I.

APRIL 9, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BURNETT, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany H. R. 13774.]

The Committee on Public Buildings and Grounds, to which was referred the bill of the House (H. R. 13774) to provide for the sale of the old post-office property at Providence, R. I., by public auction, respectfully reports the same with the recommendation that the bill do pass with the following amendment: After the word "receipt," line 7, page 2, insert the following:

Provided, That said building and site shall not be sold for any sum less than two hundred thousand dollars.

Section 10 of the act of Congress approved June 6, 1902 (32 Stat., 310), authorizing the construction of a new Federal building at Providence, R. I., further authorizes the sale of the old Federal building and site in that city at an upset price of $300,000. Under this authority the property was duly advertised for sale, but no offers were received, as the price fixed was much in excess of the market value of the property. The building is located in what was formerly a district occupied by wholesale houses, but in recent years some of the surrounding buildings have remained vacant.

The lot on which the building stands comprises 8,040 square feet and is situated at the corner of Weybosset and Custom House Streets and the upset price of $200,000 will realize for the property, if sold, more that $24.75 per square foot. Property in this vicinity has sold within the last year or two for $18 per square foot and taxable values range from this figure to $45 per square foot, most of the property having a taxable value of from $20 to $30 per square foot. The building on the old Government site is antiquated and in very bad repair. Persons familiar with the situation state the building is a detriment to the sale of the property, especially in view of the

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fact that it is unfit for any commercial purpose and would require a large outlay of money to put it in habitable condition. The roof of the building is almost gone and the structure is partially flooded during heavy rainfalls. The lighting, heating, and sanitary arrangements are wholly unfit for use, according to a report by the custodian. All evidence your committee has been able to gather relative to the property shows that the building is practically worthless and that the principal proceeds that the Government may derive from the sale of the property must come from the value placed on the site. While the new building at Providence may not be adequate for the needs of the Government service 10 years hence, or even within a shorter period, still the site of the old building would not be a satisfactory one on which to provide additional facilities as it is in a low and undesirable part of the city, the basement floor being below high-water mark and frequently wet. In addition, it would require between $125,000 and $150,000, according to an estimate from the Treasury Department, to repair the old building. The undesirability of the location and the large amount needed to put the building in habitable condition are set forth in a letter from the Secretary of the Treasury, dated April 1, 1912, to the chairman of the committee. A report of the custodian of the new building, dated December 17, 1909, among other things says:

Business men with whom I have talked, and also real estate men, claim that the building is really a detriment to the sale of the land, as it is of such size, construction, and arrangement as to necessitate tearing down altogether, or if changed so as to afford natural light (an element which in its present condition is woefully lacking), would require very great expense.

My familiarity with the building convinces me that to devote it to any modern business purpose would require a large outlay of money to put the basement in proper shape, as the building is built on made land, formerly tideflowed, and water now comes into the cellar, so much so as to require an automatic cellar drainer to keep it reasonably dry.

A complete new heating system would be required throughout the building, as well ventilation, elevators, and plumbing. This last would be a very considerable feature.

While the structure is of granite, the materials in the walls can not be made of very much use if the building were torn down, and if not torn down the cutting of the walls to afford the neccessary light could hardly be achieved without some architectural disfigurement.

In view of all these considerations, and basing my opinion upon the ideas of men familiar in a business and technical way with property of this nature in this part of the city, I am of the opinion that the Government will hardly realize from the property more than a reasonable value for the land itself.

It is very evident, from the diligent investigation made by your committee, that the upset price of $300,000 placed on this property by the act of Congress, approved June 6, 1902, is largely in excess of the real value of the property, and as there is no way by which it can well be utilized for Government purposes without a large expenditure of money for imperative repairs, which expenditure is not required to meet immediate needs of the Government service, and as the upset price of $200,000 seems to be in keeping with other real estate values in the vicinity of the building, your committee is of the opinion that the bill, as amended, should pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 517.

MAINTENANCE OF DAMS ACROSS KANSAS RIVER, KANS.

APRIL 9, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany S. 1524.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1524) to authorize the construction and maintenance of a dam or dams across the Kansas River in western Shawnee County, or in Wabaunsee County, in the State of Kansas, having considered the same, report thereon with amendment, and as so amended recommend that it pass.

Amend the bill as follows: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Topeka Commercial Club, a corporation organized under the laws of Kansas, its successors and assigns, be, and they are hereby authorized to construct, maintain, and operate not to exceed two dams across the Kansas River, at points suitable to the interests of navigation in western Shawnee County, or in Wabaunsee County, in the State of Kansas, in accordance with the provisions of the act approved June twenty-third, nineteen hundred and ten, entitled "An act to amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June twenty-first, nineteen hundred and six."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Appended is the report of the Senate Committee on Commerce, the report of the Chief of Engineers, the report of the Secretary of War, the report of the Secretary of the Interior, and a letter from Mr. Anthony, a Member of Congress from the State of Kansas.

The Committee on Commerce, to whom was referred the bill (S. 1524) to authorize the construction and maintenance of a dam or dams across the Kansas River in western Shawnee County, or in Wabaunsee County, in the State of Kansas, having considered the same, report it with an amendment, and as amended recommend its passage.

The bill thus amended has the approval of the War Department, as will appear by the annexed indorsements, the amendment referred to therein having been incorporated in the bill as reported.

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[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 27, 1911.

Respectfully returned to the Secretary of War.

The object of the accompanying bill, S. 1524 (62d Cong., 1st sess.), is to authorize the construction of a dam or dams across Kansas River, in Shawnee or Wabaunsee County, Kans.

Kansas River lies wholly within the State of Kansas, and while it may have had some importance as a commercial highway many years ago it is understood that navigation has been practically destroyed by an existing dam at Lawrence and numerous low bridges unprovided with draws.

In accordance with what is presumed to be the intention of the proponent, the bill has been amended so as to provide that the privilege granted shall be exercised in pursuance with the provisions of the general dam act approved June 23, 1910. As this act contains the provisions which Congress and the Executive deem necessary for safeguarding navigation and other interests of the United States in the subject, I see no objection to the favorable consideration of the bill by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 28, 1911.*

Respectfully returned to the chairman Committee on Commerce, United States Senate, inviting attention to the foregoing report of the Chief of Engineers, United States Army, and accompanying copy of amended bill referred to.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

REPORT OF THE CHIEF OF ENGINEERS.

[Second indorsement.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, January 25, 1912.

1. Respectfully returned to the Secretary of War.

2. The accompanying bill (H. R. 17676, 62d Cong., 2d sess.) is designed to authorize the construction of a dam or dams across Kansas River, in Shawnee or Wabaunsee County, in the State of Kansas, and is identical with Senate bill 1524, as amended and passed by the Senate at the first session of the present Congress.

3. Kansas River, across which the structures are to be built, is a navigable water of the United States wholly within the State of Kansas, and many years ago had some importance as a commercial highway. Navigation has been practically destroyed, however, by the erection of dams and drawless bridges, as well as by the formation and growth of natural obstructions.

4. The bill provides that the structures therein authorized shall be built and maintained in accordance with the provisions of the general dam act approved June 23, 1910, and in view of this I see no objection to its favorable consideration by Congress so far as the interests of navigation are concerned.

5. The attention of the Secretary of War is invited to a letter herewith from the Secretary of the Interior, dated June 17, 1911, and accompanying papers, which refer to this proposed dam.

EDW. BURR,
Acting Chief of Engineers.

[Third indorsement.

WAR DEPARTMENT,
January 27, 1912.

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the preceding indorsement hereon.

In view of the accompanying correspondence, referred to by the Acting Chief of Engineers, concerning a similar bill which was considered at the last session of Congress, it is possible that the Department of the Interior may desire to be heard in the matter.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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THE SECRETARY OF THE INTERIOR,
Washington, June 17, 1911.

MY DEAR MR. SECRETARY: I am taking the liberty of calling your attention to a bill to authorize the construction and maintenance of a dam or dams across the Kansas River in western Shawnee County, or in Wabaunsee County, in the State of Kansas, which I understand passed the Senate on the 16th of this month.

I inclose herewith a copy of the general act of June 21, 1906, a copy of the bill relating to the Kansas River, and also a copy of the report to the Senate in which you will note the statement that the bill, as reported, has the approval of the War Department.

Very truly, yours,

WALTER L. FISHER, *Secretary.*

Hon. H. L. STIMSON, *Secretary of War.*

The Department of the Interior has no official interest in the above bill, so far as I am now advised.

W. L. F.

JUNE 20, 1911.

1. Respectfully returned to the Secretary of War.

2. The within-mentioned bill was referred to the department by the Senate Committee on Commerce, and report thereon was made by the Secretary of War April 28, 1911. The report is printed in Senate Report No. 60, copy herewith.

EDW. BURR,
Acting Chief of Engineers.

WASHINGTON, D. C., *April 2, 1912.*

Hon. F. C. STEVENS,
House of Representatives.

DEAR MR. STEVENS: I am attaching hereto a copy of the bill H. R. 17676, which I have introduced to permit the construction and maintenance of a dam or dams across the Kansas River in western Shawnee County or in Wabaunsee County, Kans.

I understand a bill similar to this has passed the Senate, and I would appreciate it if you could favorably report my bill. The Commercial Club of Topeka is very much interested in this project, and any assistance you can render me in this matter will be greatly appreciated.

Yours, very truly,

D. R. ANTHONY, JR.

It is intended to utilize the power from the dam for municipal and commercial purposes. The Kaw River is not used for purposes of navigation. No commercial boats upon it.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 522.

COAL LANDS IN ALABAMA.

APRIL 11, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DENT, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany S. 244.]

The Committee on the Public Lands, to whom was referred the bill (S. 244) extending the operation of the act of June 10, 1910, to coal lands in Alabama, having had the same under consideration, beg leave to report it back with the recommendation that it do pass.

This bill meets the approval of the Interior Department, as appears from the following letter from the First Assistant Secretary of the Interior, addressed to Hon. Joseph T. Robinson, chairman of the Committee on the Public Lands, which is made a part of this report:

DEPARTMENT OF THE INTERIOR,
Washington, March 26, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: I am in receipt of your request for a report on S. 244, to permit surface entries on coal lands in the State of Alabama.

This bill will affect an approximate area of 68,000 acres, some 5,000 of which are now embraced in unperfected homestead entries suspended under the departmental decision in the case of David J. Davis (7 Land Decisions, 560). These lands having been reported as coal-bearing lands prior to the passage of the act of March 3, 1883, (22 Stat., 487), have since that date been suspended from entry, and the passage of this bill will relieve this suspension and subject the lands to entry. I therefore recommend its enactment.

Your attention, however, is called to an error in the bill, mentioned in my letter addressed to you on February 6, 1912, which is found in the reference to the act of June, 1910, in line 11. The bill should read June 22, 1910, as that is the date of the act referred to.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

This bill is intended simply to authorize agricultural entries of the surface of the coal lands in Alabama, in accordance with the general law authorizing such entries elsewhere, approved June 22, 1910. There is a mistake, however, in the date of the general act authorizing such entries. It should be June 22, 1910, instead of June 10, 1910. The committee therefore recommends that the Senate bill be amended so as to strike out the word "tenth," in line 12, and insert in lieu thereof the word "twenty-second," so as to properly identify the act, and also by inserting the word "twenty-second" in lieu of the word "tenth" in the title of the act.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 523.

AMERICAN REGISTRY TO NORWEGIAN ICE BREAKER "KIT."

APRIL 11, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HARDY, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 17235.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 17235) to grant American registry to the Norwegian ice breaker *Kit*, having had the same under consideration, reports it back with amendments and recommends that the bill as amended do pass.

The purpose of this bill was to meet an exceptional condition existing in the Territory of Alaska, and particularly to meet the needs and wants of the population of Nome.

It appears, from the undisputed testimony of the witnesses before the committee, that Bering Sea is covered with floes and drifting ice from about November 1 each year to June 1 of the following year. The ice is of such character as to prevent any vessels not specially constructed to buck it from going into that sea during that period. Owing to this condition the people of Nome have for many, many years been completely isolated during these winter months, in so far as communicating with the outside world is concerned, except in the small matter of being enabled, through dog teams, to receive about 1,000 pounds of mail per week. The Seward Peninsula, whereon are situated the rich and extensive placer gold fields of Nome, and the surrounding camps are thus practically cut off from all transportation during seven months of the year. The mail referred to is carried from Prince William Sound, at Valdez or Cordova, via Fairbanks and Fort Gibbon, in the interior of Alaska, and thence down the Yukon River, over the ice, to Nome. That condition has existed since 1898. During all that time no vessel of any kind whatever has offered to attempt to make the winter passage through the Bering Sea from Unalaska or Dutch Harbor to Nome or to give any transportation facilities for those people.

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Those representing the Norwegian vessel *Kit* have shown to the committee that, if permitted, it is their intention to acquire American ownership by purchase of that vessel by those conversant with the Bering Sea conditions and to put her on the run from November 1 to June 1 of each year for the purpose of carrying mail, freight, and passengers from Dutch Harbor, on Unalaska Island, to Nome. They represent that she is built with that peculiar power and heavy construction which will enable her to buck ice in Bering Sea and reach Nome any part of the winter, and that in consideration of her admission to American registry they will put her in that service from November 1 to June 1 of each year, being permitted during the period from June 1 to November 1 of each year to engage in whale fishing only in Bering Sea and the Arctic Ocean, and with the right, under American registry, to enter their whaling products in American ports free of duty and to purchase supplies in American ports.

After a full inquiry the committee has concluded that the important work to be done in the development of Alaska and the amelioration of the condition of her inhabitants by this vessel justifies us in recommending that her services be accepted and that she be granted American registration in consideration of her employment as specified in the bill referred to as it has been amended by your committee.

This vessel would supply not only Nome but all the regions adjacent thereto with winter mail which now accumulates at Dutch Harbor during the winter and is brought over to Nome in June. It would also to some extent carry freight and passengers destined not only for Nome, but St. Michael, which is about 100 miles south of Nome, and might be of the very greatest service in case of extremity to those inhabitants.

An inspection of the United States Customs Service in Alaska shows that Nome and St. Michael buy merchandise from the United States as follows:

Division.	1907	1908	1909	1910	1911
Bering Sea (Nome)	$4,553,852	$3,516,659	$3,735,736	$4,150,679	$2,919,456
St. Michaels and Yukon	3,624,501	3,493,778	4,305,053	3,506,359	3,510,813
Total	7,978,353	7,010,437	8,040,789	7,657,038	6,430,269

During that same period of time Nome alone had an output of placer gold in the amount of $23,097,000. It is to assist a trade of that character and the hardy Americans who are struggling against the peculiarly hard conditions of Bering Sea that we report this bill favorably.

Every inhabitant of that portion of our country seems earnestly to pray for this legislation, and with one accord they seem to believe that this is the only opportunity they have had or will likely have for any method of transportation to be given them, and your committee is of opinion that, unless this vessel is permitted to make the trip as often as it may be able, which the committee believes will be once every four to six weeks, there is no likelihood whatever that any other vessel will, at any time, be found either willing or able to perform this service so much needed by the population of Nome and its surroundings.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 523, Part 2.

AMERICAN REGISTRY TO NORWEGIAN ICE BREAKER "KIT."

APRIL 22, 1912.—Ordered to be printed.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, submitted the following

VIEWS OF THE MINORITY.

[To accompany H. R. 17235.]

This bill as reported reads as follows:

A BILL To grant American registry to the Norwegian ice breaker Kit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Navigation be, and he is hereby, authorized to register as a vessel of the United States the Norwegian steam ice breaker Kit, of two hundred and forty tons net: *Provided, however*, That such registry is based upon the following express conditions: First, that said vessel shall be wholly owned by a citizen or citizens of the United States or a corporation created under the laws of some State thereof. Second, that such vessel shall engage exclusively from November first to June first next, each year, in carrying mail on such terms and schedule as shall be reasonable, to be fixed or authorized by the Postmaster General, and freight and passengers between the ports of Nome and Dutch Harbor in Bering Sea, and such registry shall be canceled, upon the direction of the Secretary of Commerce and Labor, upon the failure of the owners thereof to comply with said conditions: *And provided further*, That notwithstanding such registry such vessel shall not engage in the coastwise trade of the United States other than is hereinbefore provided, except that it may engage from June first to November first of each year in whaling in the Bering Sea and the Arctic Ocean and may dispose of its products free of duty and procure its supplies, and for that purpose may enter into any of the ports of the United States.

The very title of the bill intentionally or unintentionally is an attempt to deceive and mislead. This vessel is in no sense an ice breaker. It is a whaling vessel of the ordinary type in all respects, except that it is larger than the ordinary vessel of this kind. Several whaling vessels are now being built in American yards upon exactly the same lines as this vessel, and any of them are just as much an ice breaker as this foreign-built whaler. The purpose of this bill is not to relieve the people of Alaska in any respect, notwithstanding the solicitude that the majority seems to have for the people of that Territory. The purpose of this bill is to admit the whale oil that may be secured by this vessel free of duty into the markets of the United States. It is estimated that this duty would amount to about $8,000 per annum.

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This vessel is not suited in any respect for making the run between Nome and Dutch Harbor during the winter months. The Bering Sea at that time is filled with vast masses of floating ice, and this vessel is not in any way properly constructed to work through such obstructions. As a matter of fact no vessel can navigate the Bering Sea successfully during the winter season with any degree of regularity. I quote from a letter from the Department of Commerce and Labor upon a similar Senate bill, that shows the absolute absurdity of the claims of those who contend that this vessel can perform any valuable service:

The purpose of the bill is to admit a foreign-built vessel to active participation in the whale fisheries reserved to vessels of the United States. The conditions upon which the American register is to be issued are expressed vaguely in the bill, but some information is afforded by the printed hearings upon the measure before the subcommittee of the House Committee on the Merchant Marine and Fisheries.

It is contended that the steamship *Kit* is an exceptional type of vessel, capable of breaking through 2 feet of ice, and that, if the register be granted, she will contract to carry the mails into Nome once a month during the months from November to June, or at least during some of those months. The blue print of the vessel, however, does not show any exceptional construction beyond the fact that the vessel is heavier in the bow than is usual. For short distances this heavy bow might enable the *Kit* to break smooth ice 2 feet thick, but several revenue cutters can do the same, and the heavy bow needed for this purpose is not especially expensive or a novelty in marine architecture. During the winter months the department is advised by revenue-cutter officers, familiar with Bering Sea navigation, that the ice, closing in Nome, sometimes reaches for 200 miles, and is not an even field of uniform thickness, but by the action of wind and waves is broken with hummocks sometimes 20 feet above the water and of course much more below the surface. Through this distance of ice of such description the *Kit* could not break her way, and probably no other vessel could do so. Her chances of reaching Nome would depend on the uncertainties of finding leads through the ice, and through such channels almost any other stanch vessel would have equal chances. Subject to this uncertainty a mail once in five weeks might be carried to Nome in 38 days on the *Kit*. The dog teams carry regularly a weekly mail in 43 days.

But suppose this vessel could make a trip from Nome to St. Michael once a month, of what value would it be to the Government or to the people of Alaska? The majority claims that it could carry passengers and freight and the mails. To say that there would be either freight or passengers to carry between Dutch Harbor and Nome as final points of termination during the winter months is too absurd for serious consideration. The only service of this kind that could possibly be would be from Cordova or Valdez by way of Dutch Harbor to Nome. No passenger would ever expose himself to the delay and the peril of such a trip when he could make it more comfortably, probably quicker, and with absolute safety over land. Freight would never be sent in this way, for it could be sent to Nome in the first place directly from Seattle, where practically all of it originates, as cheaply as it could to Dutch Harbor. The only possible service that this vessel could perform would be that of carrying the mail. The majority of the committee do not seem to take into consideration the fact that it would be necessary to get the mail to Dutch Harbor during these winter months, if it was to be carried from there to Nome. The distance from Cordova to Dutch Harbor, the way that the mail boats run, is approximately 1,314 miles through the roughest waters during the winter months on the globe. There is but one vessel that makes this run during the winter, and that only once a month. Its trips are irregular and no person can prophesy within a number of days when it will reach Dutch Harbor.

Take, then, the uncertainty that would attend a trip on the *Kit* from Dutch Harbor to Nome, and no mail would ever be sent that way

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unless it would be heavy second-class mail, such as catalogues, books, etc. In other words, even if this vessel could do all that the majority claims for it, it would be of little value either to the Government or to the people of Alaska. Notwithstanding these facts, however, it is proposed to grant this small vessel of 240 tons a subsidy of approximately $8,000 annually and to pay it per mile a greater rate of subsidy than we give the great ocean greyhounds for carrying our mail between here and Europe. Even then it is not proposed to require this vessel to carry the mails, but she is to be paid in addition whatever this service is worth. In fact, no requirements are made of this vessel in order to receive this heavy subsidy, except as stated in the majority report, "it is to make the trip as often as it may be able." If it made one trip a year, or if it made none, which is more likely, it would comply with the requirements thus laid down by the majority.

This is not an American-owned vessel. No American has any interest in it. No one, so far as the committee is aware, knows where this vessel is. It was once seen in some port in Siberia. At this time this foreign-built ship is floating around somewhere in the "salted seas," and the majority of the committee proposes if it can be found to place the American flag on it.

I also call your attention to the fact that during the seven months for which this vessel is to receive approximately the sum of $8,000 is the time of the year when it would not be used for whaling and that otherwise it would be lying idle. If this vessel is an icebreaker, then there is a whole fleet of icebreakers on the Pacific coast already under the American flag, built by American labor, any one of which would be ready and willing to do all that the *Kit* can do for a less compensation.

There are about 2,500 people at Nome during the winter months. According to a statement from the Post Office Department, they receive mail during that time as follows:

> The frequency of the present overland service is twice a week from October 1 to November 23 and from March 21 to May 31, and three times a week from November 24 to March 20, between Cordova and Fairbanks, and the connecting service for the supply of Nome is of a frequency of once a week from November 1 to December 27 and from April 25 to May 31, and twice a week from December 28 to April 24 each year.

The amount carried to Nome by this overland route during the wintertime is 1,000 pounds each trip, and the average time of carrying the mail from Cordova by way of Fairbanks to Nome is about 38 days.

If this bill was in the interest of Alaska, no one would oppose it. Certainly it can be said with perfect consistency that those who oppose this bill are as much interested in Alaska, know as much about it, and are as friendly to the interests of that Territory as are those favoring the bill. The purpose of this bill is not to help Alaska, but to place under the American flag a foreign vessel, to put money into pockets of private parties at the expense of the Government.

WILLIAM S. GREENE.
W. E. HUMPHREY.
E. STEVENS HENRY.
ASHER C. HINDS.
WILLIAM D. STEPHENS.
THOMAS PARRAN.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 524.

POST ROADS IN THE UNITED STATES.

APRIL 11, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HENRY of Texas, from the Committee on Rules, submitted the following

REPORT.

[To accompany H. J. Res. 262.]

The Committee on Rules, to whom was referred the House joint resolution (H. J. Res. 262) creating a committee of Congress to investigate the building of post roads in the United States, having considered the same, report it to the House with the recommendation that it do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 527.

BRIDGES ACROSS TUG FORK OF BIG SANDY RIVER.

APRIL 11, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. DOREMUS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 20593.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 20593) to authorize the Norfolk & Western Railway Co. to construct sundry bridges across the Tug Fork of the Big Sandy River, having considered the same, report thereon with amendment and as so amended recommend that it pass.

The bill as amended has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

Amend the bill as follows:

Page 1, lines 10 and 11, strike out the words "as may be selected by said company" and insert in lieu thereof the words "at points suitable to the interests of navigation."

[First indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, March 4, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (H. R. 20593, 62d Cong., 2d sess.), to authorize the Norfolk & Western Railway Co. to construct sundry bridges across the Tug Fork of the Big Sandy River, is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Second indorsement.]

WAR DEPARTMENT, *March 5, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Acting Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 529.

THE ROCKEFELLER FOUNDATION.

APRIL 11, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. McCOY, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 21532.]

The Committee on the Judiciary, having had under consideration the bill H. R. 21532, the purpose of which is to create a corporation to be known as the Rockefeller Foundation, favorably report the same without amendment and recommend that it pass.

This bill is the second bill introduced by Mr. Peters at the present session of Congress for the purpose mentioned, and is so drawn as to meet and obviate certain criticisms of the first bill made by the subcommittee of the Judiciary Committee, to which it was referred.

Accompanying this report, and as a part of it, is submitted a statement in regard to the subject matter of the bill, prepared by Mr. Jerome D. Greene, general manager of the Rockefeller Institute for Medical Research. Mr. Greene's statement, among other things, points out the particulars in which this bill has been so drawn as to meet the criticisms against a bill introduced in the Senate in 1910. Mr. Greene says:

> The incorporation of the Rockefeller Foundation is intended as a means of maintaining, for as long a period in the future as the trustees or the Congress may deem best, an approved method of careful philanthropic expenditure.

The bill is so drawn as to secure the carrying out of that purpose by the use of such funds as shall come into the possession of the corporation if created, and the interests of the public, so far as they can be foreseen, are fully protected by the provisions of the bill; but should this not turn out to be the case, relief can be had under section 14 of the bill, which gives to Congress full power to alter, amend, or repeal the charter of the corporation.

Section 3 of the bill reads in part as follows:

> That the object of the said corporation shall be to promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge;

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in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthrophic means, of any and all of the elements of human progress.

The public is more or less familiar with the work along humanitarian lines that has been made possible by Mr. Rockefeller, and especially with the work of the Rockefeller Sanitary Commission for the Eradication of the Hookworm Disease. The second annual report of the commission for the year 1911 has recently been issued, and accompanying this report of the Judiciary Committee and made a part of it is a summary of the report of that commission.

WORK OF THE ROCKEFELLER INSTITUTE FOR MEDICAL RESEARCH.

Some 10 years ago Mr. Rockefeller established the Rockefeller Institute for Medical Research, which carries on its work in the city of New York. The following is a memorandum of contributions which the Rockefeller Institute has made for the relief of human suffering:

I.

PRACTICAL CONTRIBUTIONS FULLY TESTED IN THE LABORATORY AND LATER CLINICALLY, AND NOW ACCEPTED BY THE PROFESSION AT LARGE.

Antimeningitis serum.—This serum saves about 75 per cent of the cases of epidemic meningitis when used early; formerly the mortality was 75 per cent. The serum is used all over the world.

Intraspinal injections of magnesium for lockjaw.—This treatment is sometimes effective when all other remedies, including antitetanus serum, have failed. The treatment is used all over the world.

Intratracheal insufflation.—This method is the simplest for thoracic surgery and permits free access to the heart and lungs. The method is being used for giving anæsthetics in a safe and convenient fashion to patients with a weak heart, to the aged, etc.

Blood-vessel suture.—By this means blood may be safely transfused from a normal person to a patient. Numerous lives have thus been saved.

II.

PRACTICAL CONTRIBUTIONS TESTED IN THE LABORATORY.

Blood-vessel transplantation.—This method gives complete cure for certain blood-vessel tumors by excising the tumor and interposing a normal piece or tube of tissue.

Organ transplantation.—This method has shown the practicability of replacing, for example, a diseased kidney by a normal one from the same species. If carried out practically this would mean the saving of many lives doomed by Bright's disease.

Studies of infantile paralysis.—This investigation, still in progress, has already shown the profession how to recognize early cases, and has given valuable data regarding prevention. Numerous drugs, made synthetically in the institute, are being tested in the treatment of this disease.

Studies in anaphylaxis.—These studies deal with the unfortunate cases which occasionally succumb to the injection of therapeutic sera. The two main causes of death have been established, and for one form the therapeutic remedy has been found; for the other cause of death no remedy has so far been discovered, but the physician now knows what organ to observe.

Serum for influenza meningitis.—This disease is almost always fatal. The serum in experiments on monkeys yields a good percentage of recoveries.

Studies in tubercular meningitis.—For this disease there was no treatment. The laboratory experiments have so far succeeded in considerably lengthening the life of the animal.

Studies in syphilis.—The organism of this widely prevalent disease has been isolated in pure culture, and this has permitted the establishment of a new procedure by means of which the disease can be diagnosed.

Pharyngeal insufflation.—This method of artificial respiration is designed for the use of the laity in cases of electric shock, drowning, coal-gas poisoning, etc. It has not yet been tried on human beings.

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III.

IMPORTANT THEORETICAL OR ETIOLOGICAL CONTRIBUTIONS THAT HAVE NOT YET A THERAPEUTIC APPLICATION.

Cancer.—The theory that cancer might be due to misplacement of tissue in the embryo and consequent postponement of its growth until adult life has been discredited. A typical malignant tumor caused by an ultramicroscopic agent has been found; it behaves like a living organism, and without doubt is one. This discovery is opposed to the elaborate theoretical reasoning upon which it has been asserted that cancer could not possibly be caused by a parasite. Later findings tend to show a parasitic cause as probable for cancer in general.

Preservation of tissues outside the body.—Tissues are preserved in a state of latent and even active life outside of the body. This makes possible the study of the laws of tissue growth which has important bearings on blood-vessel suture and transplantation mentioned above, and also upon the rapid healing of wounds. Skin can be taken from a fresh cadaver, kept for several weeks, and be used for the treatment of ulcers. It has been found that tissues separated from the body have a great acceleration of growth after two months in the test tube. The secret of indefinite preservation seems to be the washing away of poisonous waste products in addition to supplying nutrition.

Other theoretical contributions.—The departments of chemistry and experimental biology have been fruitful in contributions to our knowledge of the fundamental substances and processes of organic life. The direct application of this knowledge may have to wait for fifty or a hundred years. It is equally possible that it may furnish to-morrow the key to a problem like that of cancer or pneumonia.

SYNOPSIS OF THE BILL.

Section 1, incorporators: The following persons are constituted a body corporate of the District of Columbia: John D. Rockefeller, John D. Rockefeller, jr., Frederick T. Gates, Starr J. Murphy, Harry Pratt Judson, Simon Flexner, Edwin A. Alderman, Wickliffe Rose, and Charles O. Heydt.

Section 2, title: The Rockefeller Foundation.

Section 3, object: To promote the well-being and advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthropic means, of any and all of the elements of human progress.

Restriction of object: Congress may at any time impose such limitations upon the objects of the corporation as it may deem the public interest demands; all property received must be accepted and held subject to this proviso.

Section 4, powers of the corporation: To establish, maintain, and endow, or to aid others to establish, maintain, or endow institutions and other agencies for carrying on the objects of the corporation; to purchase, hold, sell, and convey real estate necessary or convenient for said objects; to erect buildings, employ teachers, agents, etc.; to make donations for similar objects; to collect statistics and information; to publish and distribute books, etc.

Section 5, further powers: To have a common seal; to sue and to be sued; to hold, receive, grant, convey, hire, or lease real or personal estate for the purposes of the corporation; to accept and administer trusts for such purposes.

Limitation of amount of property: Total amount of property held at any one time, whether absolutely or in trust, not to exceed $100,000,000, exclusive of increases in value of property subsequent to its receipt.

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Transaction of business: The corporation empowered to prescribe by by-laws or otherwise various regulations for the management of the property and the transactions of its business.

Section 6, income: The income of the property not to be accumulated or added to the principal, but to be currently applied to the objects of the corporation.

Section 7, distribution of principal: The corporation empowered to distribute the principal of any property 50 years after its receipt; the corporation required to make such distribution after 100 years, if so directed by Congress.

Section 8, membership: The number of members to be not less than 9 or more than 25. If the number falls below 9 no gifts can be made until vacancies are filled. Members are divided into three classes; the term of service three years; one-third of the members elected each year.

Section 9, election of members: Members to be elected by the members of the corporation subject to disapproval by a majority of the following persons: The President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of the following institutions, namely, Harvard University, Yale University, Columbia University, Johns Hopkins University, and the University of Chicago.

Section 10, office of the corporation: Principal office to be in the District of Columbia.

Section 11, taxation: All personal property used for the purposes of the corporation to be exempt from taxation by the United States or any Territory or District therof. [This provision does not affect the taxation of either real or personal property under the laws of any State in which it may be situated.]

Section 12, compensation for services: No officer, trustee, member, or employees to receive any pecuniary benefit except reasonable compensation for services in effecting the purposes of the corporation.

Section 13, annual report: An annual report to be filed with the Secretary of the Interior, stating in detail the property held and the use made of it.

Section 14, alteration, amendment, or repeal: The charter will be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States.

Section 15, to take effect immediately: The act will take effect immediately on its passage.

The Proposed Incorporation of the Rockefeller Foundation in the District of Columbia.

HISTORY AND OBJECTS OF THE MEASURE.

In the spring of 1910 a bill was introduced in the United States Senate to incorporate the Rockefeller Foundation. The object of the incorporation was stated in the following terms: To promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions, and of foreign lands, in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion [1] of any and all of the elements of human progress." To this end the corporation was further authorized to establish, maintain, and endow, or to aid others, whether individuals, associations, or corporations, to establish, maintain,

[1] The present bill adds here the woods "by eleemosynary and philanthropic means."

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and endow, institutions and other agencies for carrying on said objects. The membership of the corporation was to be not less than 5 nor more than 25. The term of membership was to be three years, and elections were to be by cooptation. No limitation was placed upon the amount of funds which the corporation might hold. Provision was made for the exemption from taxation of personal property and funds applied to the uses of the trust, but real estate was not specifically exempt. No officer, trustee, member, or employee was to receive any pecuniary benefit from the operations of the corporation, except reasonable compensation for services. The transactions of the corporation were to be annually reported to the Secretary of the Interior, and, finally, the charter was to be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States.

FULL PUBLIC DISCUSSION.

The publication of the terms of the proposed charter was followed by wide public discussion and some adverse criticism. The principal objections urged were that there should be some limitation on the power of members of the corporation to elect their successors; that there should be a limit to the amount of money that could be heaped up for purposes subject to so broad a definition as that given by the charter; that the foundation should not necessarily be perpetual, but that it should be subject to termination and to the distribution of its funds at some period in the future; and, finally, that the control of the foundation should be more specifically vested in Congress. These criticisms were carefully considered by Mr. Rockefeller and his advisers in the friendly spirit which for the most part prompted them, with the result that the bill for the incorporation has now been reintroduced in an amended form. The changes in the bill amount merely to a specific statement of limitations that might at any time have been incorporated in the charter under the power of amendment given to Congress by the last section. Nevertheless, the incorporators have felt that there were advantages in making some or all of the proposed changes in the charter upon its original passage.

AMOUNT OF PROPERTY LIMITED.

The first important amendment specifically stated that Congress might at any time impose such limitations upon the objects of the corporation as the public interests should demand, and that all gifts or property received by the corporation should be held subject to this provision. The total amount of property was specifically limited to $100,000,000, exclusive of increases in the value of property subsequent to its receipt.

INCOME NOT TO BE ACCUMULATED.

The next amendment provided that the income of the corporation should not be accumulated or added to the principal, but should be currently applied to the purposes for which the corporation was created, subject only to such reasonable delay as might be necessary in the wise administration of the fund.

PROVISION FOR DISSOLUTION.

The next amendment provided that after the expiration of 50 years from the receipt of any property the corporation might distribute the principal as well as the income with the consent of two-thirds of the members of the corporation; and that such distribution should take place after 100 years from the time the property was received if Congress should so direct.

SELF-PERPETUATING CLAUSE MODIFIED.

The self-perpetuating clause was amended by the provision that the election of new members of the corporation should be subject to disapproval within 60 days by a majority of the following persons: The President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of the following institutions: Harvard University, Yale University, Columbia University, Johns Hopkins University, and the University of Chicago.

TAX EXEMPTION LIMITED.

To make it clear that the charter did not attempt to exempt from taxation property that would otherwise be taxable under the laws of any State in which it might be held, an amendment was made clearly limiting to the United States or any Territory or District thereof the provisions of the exempting clause.

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MINIMUM MEMBERSHIP INCREASED.

Subsequently the charter has been amended by the framers by increasing the minimum number of members of the corporation from five to nine, and by some minor verbal changes calculated to strengthen still further those provisions of the charter which are designed to guard against any possible diversion of the trust from the spirit and intent of its stated purposes.

CONTROLLING MOTIVES OF THE FOUNDATION.

The adoption of these amendments in deference to helpful criticism seems to have removed all reasonable opposition to the incorporation of the Rockefeller Foundation. No one who has read carefully the terms of the charter, or who has observed the spirit in which suggestions and criticisms have been received, can fail to see with satisfaction these three manifestly controlling motives in the mind of the founder: First, a desire to secure during the visible future the continuation of the method of careful philanthropic investment which has characterized Mr. Rockefeller's benefactions during his lifetime. Second, a desire to prevent the "dead hand," or as some one has aptly observed "a dead legislature," from hampering in the distant future that use of the fund which would most nearly accord with the contemporary wisdom of future generations. The third motive actuating the incorporation of the Rockefeller Foundation, and expressed in its charter, is the desire to make this munificent gift directly to the whole American people, and forever subject to the control of their elected representatives. This provision not only possesses a sentimental advantage which the charter of a single State would not afford, but it expresses an implicit confidence in the stability of our national life and in the will of the people to deal justly, both now and forever, with the high purposes of the proposed foundation.

INCORPORATION UNDER DISTRICT CODE INAPPROPRIATE AND IMPRACTICABLE.

A valid reason for obtaining a special charter for the Rockefeller Foundation, instead of seeking incorporation under the District Code, is that the scope of operations being limited to no single State, or even country, it would be inappropriate to have the charter subject to regulations designed chiefly, if not exclusively, for local organizations of the District. The founder wisely proposes to have the objects of the corporation defined and controlled in accordance with the best contemporary wisdom from generation to generation as long as the foundation endures. He desires that the control thus exercised shall represent the public opinion of the country rather than that of any single State or section. Otherwise, as between the philanthropic interests of a single locality and those of the whole country, the corporation, if under local control, might wrongly prefer the former.

Some 34 organizations secured incorporation by the United States between the year 1889 and the year 1907. Of these the following have objects that from the standpoint of public policy seem to be on all fours with those of the Rockefeller Foundation. While the scope of operations of each is somewhat more limited, they all permit a fairly wide range of educational or philanthropic expenditure:

Other educational and charitable incorporations by the United States.

	Bills approved.
American Academy in Rome	Mar. 3, 1905
American Historical Association	Jan. 4, 1889
Carnegie Institution of Washington	Apr. 28, 1904
Carnegie Foundation for the Advancement of Teaching	Mar. 10, 1906
General Education Board (founded by John D. Rockefeller)	Jan. 12, 1903
National Child Labor Committee	Feb. 21, 1907

This list shows that the precedent of incorporation by the United States for philanthropic institutions having a national scope is now thoroughly established. It does not appear as a result of the experience of any of these institutions that any abuse or defect has developed; nor does it appear that any form of local incorporation would have satisfactorily achieved the ends of these organizations, whose members are, and probably always will be, distributed throughout the country.

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One of the above organizations, the Carnegie Institution of Washington, tried the experiment of incorporation under the District Code, but very early was embarrassed by doubts as to the propriety of carrying on work on a large scale in all parts of the world under a form of incorporation the wording of which was very evidently meant to apply to a local educational institution. The Rockefeller Foundation would probably come under a different section of the code, but the general objections would be the same, to say nothing of the practically prohibitive effect of the requirement that a majority of the incorporators should be residents of the District of Columbia—a requirement inconsistent with a proper freedom to select the best men from all parts of the country.

OBJECTS AND POLICY OF THE FOUNDATION INDICATED BY EXPERIENCE.

The incorporation of the Rockefeller Foundation is intended as a means of maintaining, for as long a period in the future as the trustees or Congress may deem best, an approved method of careful philanthropic expenditure. The scope of the charter is purposely made wide, but wide only within the strict limits of charitable intent. The aggrandizement of the members of the corporation, or of the corporation itself, through the administration of the trust, is expressly excluded by the provision that no person connected with the foundation shall derive any pecuniary benefit therefrom other than fair compensation for services, and that the income of the endowment shall be spent each year—not added to the principal.

LOCAL SELF-RELIANCE STIMULATED BY SUCH ENDOWMENTS.

The characteristic of Mr. Rockefeller's benefactions in the past is that they have been the means of stimulating rather than replacing self-help and self-reliance. Thus the work of the commission for the eradication of the hookworm has been carried on exclusively through State agencies with the cooperation of hundreds of local physicians, and has been made the occasion of permanently improving the local public-health organizations. The promotion of improved methods of corn and cotton growing in the South by the General Education Board has not been by flooding the agricultural communities with money they have not earned, as a substitute for local enterprise, but by showing through a few farms here and there, with a moderate expenditure for instruction and demonstration, how a hundred neighboring farms could, with their own labor, double or quadruple their products. The endowment of education through schools, colleges, and universities has stimulated the sense of local responsibility instead of destroying it, as is graphically indicated by the fact that for about seven and a half millions of dollars contributed conditionally through the General Education Board to institutions of learning in all parts of the country since 1905, about $38,000,000 have been raised by those institutions in fulfillment of the board's conditions. The sending of a single physician to Texas two months ago by the Rockefeller Institute for Medical Research, has resulted in the effective instruction of the public-health authorities and many private physicians in that State, once for all, as to the method of dealing with a virulent outbreak of epidemic cerebrospinal meningitis. Incidentally the new curative serum was administered to hundreds of persons, with a resulting decrease of the normal death rate from 75 per cent to less than 25 per cent.

PROMOTION OF PUBLIC HEALTH.

The question of how the Rockefeller Foundation is to spend its money is a legitimate one for the public to ask before the charter is granted, especially in the light of ignorant forebodings lest a large sum of money might seek the protection of a charter for private rather than for public ends. This question is answered, first, by the unequivocal language of the charter, pledging the use of the money exclusively for charitable and humanitarian purposes, subject to the control of Congress; and, secondly, by the concrete illustration of how these same resources have been used, while under private control, through the General Education Board, the Sanitary Commission for the Eradication of the Hookworm Disease, and the Rockefeller Institute for Medical Research. It may be confidently expected that far-reaching measures for the promotion of public health along both educational and medical lines will have the first attention of the trustees.

JEROME D. GREENE,
General Manager of the Rockefeller Institute for Medical Research.

SOUTHERN BUILDING,
Washington, D. C., March 15, 1912.

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Comments by Opponents of the Original Draft.

[From the Independent.]

THE CHARTER REVISED.

When a year ago Mr. Rockefeller asked that Congress grant a charter for his foundation, we hastened to call attention to the possible dangers involved in the perpetuation of so vast a trust, which might grow by accretion indefinitely, and which would be controlled by a close board of self-perpetuating trustees. These and other apprehensions led Congress to hesitate and fail to grant the charter. While these dangers did not seem very imminent, and we presume the fund would have continued indefinitely to perform its beneficent purpose, it seemed wise to Congress to avoid a possible peril, and the gift to the people was declined under the circumstances. * * *

But Mr. Rockefeller and his advisers were not discouraged or offended. They simply took back the offered charter and carefully revised its draft to meet these and all other possible objections.

VETO ON ELECTIONS.

First, the board of trustees is not to be an unlimited, self-perpetuating body, which may continue indefinitely in a course which may be inimical to the public good. When a trustee dies or resigns, the election of his successor can be vetoed by an outside body, consisting of the President of the United States, the Vice President, the Chief Justice of the United States, the Speaker of the House of Representatives, four men representing the people, and the presidents of five universities—Harvard, Yale, Columbia, Johns Hopkins, and Chicago. That certainly ought to assure independence as well as necessary continuity. These are men of the highest character, who know equally what would imperil the interests of the people and what are the demands of progressive research or public welfare. If these men can not be trusted, no men can.

SAFEGUARDS PROVIDED.

But let us suppose the five university presidents and the Chief Justice are conservative men, and are going contrary to the will of the people; then another guard is provided. Congress is given the right at any time to limit the objects of the incorporation as public interests may demand. Let us suppose an utterly improbable case, that the will of the people is moving toward public ownership of all land and manufactures and service, and that the trustees, notwithstanding the control of the nine men with the power of veto, should use the fund to thwart the will of the people, then Congress is given the right to forbid such expenditure. The fund is not allowed to thwart the people, but the people can coerce the fund. That adds another point of protection where no further protection is needed except against almost inconceivable danger.

LIMITATION OF PRINCIPAL.

Yet one more protective circumvallation is put around the endangered people. The foundation may wind up its affairs at the end of 50 years, and at the end of a hundred years Congress may close the whole concern. That is enough, or ought to be enough, to quiet the alarm of the most imaginative at scenting peril to the people; and yet it is not quite all. A final provision is that the income, if not spent in any year, shall not be added to the principal, and that the principal shall never exceed the present $100,000,000. This seems to us both unnecessary and unwise. The fund is devoted to the benefit of the world, and it is forbidden that its amount shall ever be increased. We fail to see why the income of twice or ten times that amount should not be so used, all danger having been triply averted. Mr. Rockefeller is told that he must not by his will add another hundred million to what is thus given to mankind. Why should a mere hundred million be feared? A hundred million is not so fearfully large an amount. There are a plenty of organizations not devoted to benevolence, carried on for personal gain—railroads, manufacturing companies—whose capitalization vastly exceeds this hundred million. Let the Government watch them as it will watch this, and we do not fear their influence; only, the income of this is all spent for the benefit of the world, and theirs for private gain. We should welcome the enlargement of this fund, and we hope this provision will be stricken out.

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CONTINUITY OF OPERATION.

The advantage of such a large fund is this, that it allows continuity of operation. As in the case of the Carnegie Foundation, lines of research can be carried on, scientific or sociological, which it may take a generation to complete. There are great problems still before the world in every department of knowledge that require long and expensive investigation—in pathology, in physics, in biology, in sociology, in archeology. The experts know it, and they long for combined, continued research. How long would it take us to learn the history of civilization, of which we now know only the barest outlines? How long will it take to abolish poverty? We would have such a noble fund allowed to do all the good it can without suspicious limitations.

CHARTER NOW FREE FROM OBJECTION.

[Editorial from The Survey.]

We trust that the revival of discussion in the press of the pending charter of the Rockefeller Foundation means that those who are in charge of the measure in Congress are finding the conditions favorable for final action. We see no reason for further delay. Over a year ago, in discussing the amendments which were then adopted, we expressed the opinion that the charter should be granted. There is no occasion to repeat the arguments against a self-perpetuating board of incorporators, against the possible accumulation of income in the hands of trustees, and against the principle of perpetual endowment. All of these principles, which were in the proposed charter in its original form, and which are in the charters of many excellent institutions, have been either abandoned outright by the amended bill, or so modified as to be free from serious objection. Trustees, under the pending bill, are to choose their successors, but the choice in each case must be submitted to certain high Government officials and university presidents, and it becomes void if a majority of these outside, independent, and highly qualified electors disapprove. Income can not be accumulated or added to the principal, but must be currently applied to the purposes for which the corporation is created. After 50 years the trustees may distribute the principal of any particular endowment, and after 100 years the trustees must make such distribution if directed to do so by the Congress of the United States.

SOUND PRINCIPLES OF ENDOWMENT.

These amendments are important as precedents and as a formal recognition of sound principles of philanthropic endowment and public control. They make it easier for the public to know what policies are governing the trustees, and they make it easier for the public to interfere if there should be occasion. We have no desire, however, to magnify the importance of the changes made in the bill, or to fix attention exclusively on the possibilities of abuse of power inherent in any institution which has at its command such resources as are suggested by the clause limiting the total property of the institution to $100,000,000. After due attention has been given to the safeguards against abuse it is altogether natural and proper to revert to the need for just such foundations and to the immense good which they may accomplish. The Rockefeller Foundation is to devote its resources to the acquisition and dissemination of knowledge, to the prevention of suffering, and to the promotion of any or all of the elements of human progress. It is to be assumed that this great educational, philanthropic, and civilizing institution will be guided with an eye single to these great purposes. To refuse legal sanction to such an undertaking would be a national blunder. The greater our confidence in the intelligence and in the capacity of the democracy, the more heartily will we welcome such voluntary socializing of wealth. Let the state do its utmost to provide for education and the relief of distress, there will still be ample room for all that a hundred million dollar endowment can do in fields which are not ready or which never will be appropriate for state action. A dozen institutions with equal resources, each doing its self-appointed work in cooperation with one another and with less amply endowed agencies, could find legitimate place in the forward movement of human progress and civilization. They will not kill private initiative or any desirable public activity, but will rather promote both. The general effect of the large endowments recently created has been to stimulate and encourage the efforts of those who are working to the same ends, both in public and in private. The General Education Board and the Carnegie Foundation for the Advancement of Teaching have enormously strengthened the better tendencies in higher education. The Russell Sage Foundation has had a similar effect in its sphere.

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SUCH INSTITUTIONS NEEDED NOW AND IN THE FUTURE.

To be afraid of large gifts like these would be to confess civic incompetence. If in some respects courts and legislatures do not now fully protect the public interests and reflect the deliberate public will, this is becoming less and less the case. If we can not count confidently on the ultimate integrity and good faith of our judges and lawmakers, then there may be some excuse for stubbornly opposing the creation of great institutions of learning and of social reform, for such institutions can not be carried on without great financial resources, and the possession of great resources implies always the possibility of turning them against the public interest. But if we do have full confidence in our political institutions, in our power to inflict condign punishment on faithless officials, in our ability to modify by peaceful and lawful means the customs which we have inherited as new needs and conditions arise, in the ultimate soundness and efficacy of the Government to which we have intrusted the protection of the public interests, then we may look with appreciation and equanimity on the planting of new institutions which are avowedly consecrated to education, philanthropy, and social reform. Such institutions are needed now and they will be needed to-morrow. Recognizing that they may not be needed forever, the sponsors for the Rockefeller Foundation say in effect: After 50 years we may and after 100 years we must, if your representatives then so direct us, lay down our task and distribute even our principal funds.

EACH GENERATION SHOULD DEFINE ITS NEEDS.

Each generation should decide, and will more or less definitely decide for itself, what its needs are, and to what purposes the surplus resources at its command shall be directed. For this reason wise and generous philanthropists are increasingly leaving to their trustees a very broad discretion as to the manner in which, and even as to the purposes to which, their gifts shall be applied.

The pending charter of the Rockefeller Foundation gives the most complete and explicit expression to this idea. Benjamin Franklin, perhaps the shrewdest and most far sighted man of his generation, left legacies to his native city of Boston and his adopted city of Philadelphia which lay unused for years because he innocently imposed impracticable conditions on the executors of his will. No such difficulties will arise in this instance: First, because of the broad terms in which the scope of the foundation is defined; and second, because in case this scope is found to be broader than is consistent with public interest, the Congress of the United States may at any time impose such limitations upon the objects of the corporation as it may deem the public interest demands.

SUMMARY FROM SECOND ANNUAL REPORT OF THE ROCKEFELLER SANITARY COMMISSION.

The Rockefeller Sanitary Commission has just issued its second annual report. This report shows that in the fight against hookworm disease in nine States for the year 1911 the commission has expended $148,407.14; that the States themselves have expended $30,388.73; that there have been treated during the year in these nine States 140,478 persons. This means that for every $1.05 expended by the commission, or for every $1.27 expended by the commission and the States, a human being has been benefited in health and helped to a higher and better scale of living.

But the treating of these 140,378 persons was only an incident in the work; the immediate object for which the money was expended is the education of the people. These State departments of health have enlisted for the war; first effort is being directed toward establishing the work on a permanent basis. The organization in each State is systematically enlisting the physicians in the service, so that they may be relied upon to treat all infected persons; these organizations are enlisting the public press and the public schools as permanent educational agencies to teach 20,000,000 of people to see to it that every infected person seeks examination and treatment and ultimately to stamp out the disease by putting a stop to soil pollution.

These organizations have by preliminary survey demonstrated the presence of the infection in 719 of the 884 counties in 10 States; have completed the definite infection survey for 87 counties in 9 States, and for this survey have examined microscopically 37,267 rural children from 6 to 18 years of age; have completed the definite sanitary survey in 125 counties, and in this work have inspected 43,448 rural homes.

They have personally visited 5,225 physicians; have delivered 206 lectures to

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4,900 physicians; have sent to physicians 64,720 personal and circular letters and 56,180 bulletins. During the year 4,126 physicians have reported treating for hookworm disease 53,167 persons.

These organizations have reached by personal visit 9,450 teachers; by letter, 17,294; by lectures at institutes, 15,448; by bulletins and leaflets, 43,393. They have personally visited 673 newspapers and have given to the press 5,762 letters and 1,843 articles. They have delivered 3,620 public lectures to 451,877 people, and have distributed to the people 908,436 bulletins on sanitation.

In 9 States 85 counties have appropriated from county funds for the local expenses of county dispensaries for the free treatment of hookworm disease $10,799.60, and at these dispensaries 74,005 persons have been treated.

The press and the people are backing the work. Public sentiment is now forming for an efficient county superintendent of health to devote his whole time to the medical examination of rural school children and the conservation of the life and health of the people.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 538.

COMPENSATION FOR USE OF HIGHWAYS FOR CARRYING RURAL MAIL.

APRIL 12, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LAMB, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 22952.]

The Committee on Agriculture, to which was referred House bill 22952, report the same back with the recommendation that the same be passed with the following amendments:

Line 4, page 1, after the word "States," strike out the comma and insert "and."

Lines 4 and 5, page 1, strike out the words "and companies incorporated under the laws of the several States."

Line 11, page 1, strike out "twelve" and insert "nine."

Line 11, page 1, after the word "shells," insert a comma and the words "vitrified brick,".

Line 13, page 1, after the word "shall," insert the word "have," and strike out the word "have" after the word "continuously."

Line 2, page 2, strike out "twelve" and insert "nine."

Line 9, page 2, strike out "twelve" and insert "nine."

Line 10, page 2, after the word "clay," strike out "or" and insert a comma.

Line 11, page 2, before the word "constructed," insert the words "or rock and gravel."

Line 11, page 2, after the word "to," insert "have."

Line 12, page 2, strike out the word "have."

Line 17, page 2, strike out the word "quickly" after the word "to" and insert it after the word "water."

Lines 23 and 24, page 2, strike out the words "or of any company incorporated under the laws of any State."

Line 2, page 3, strike out "thirty" and insert "twenty-five."

Line 4, page 3, strike out "ten" and insert "fifteen."

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Line 6, page 3, strike out the word "other" before the word "compensation" and insert it after the word "highways."

Line 16, page 3, strike out the words "or persons."

The said bill as amended will read as follows:

A BILL Providing that the United States in certain cases shall make compensation for the use of highways for carrying rural mail.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this act certain highways of the several States, and the civil subdivisions thereof, are classified as follows:

Class A shall embrace roads of not less than one mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than nine feet wide composed of shells, vitrified brick, or macadam graded, crowned, compacted, and maintained in such manner that it shall have continuously a firm, smooth surface, and all other roads having a road track not less than nine feet wide of a construction equally smooth, firm, durable, and expensive, and continuously kept in proper repair.

Class B shall embrace roads of not less than one mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than nine feet wide composed of burnt clay, gravel, or a proper combination of sand and clay, sand and gravel, or rock and gravel, constructed and maintained in such manner as to have continuously a firm, smooth surface.

Class C shall embrace roads of not less than one mile in length upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, with ample side ditches, so constructed and crowned as to shed water quickly into the side ditches, continuously kept well compacted and with a firm, smooth surface by dragging or other adequate means, so that it shall be reasonably passable for wheeled vehicles at all times.

SEC. 2. That whenever the United States shall use any highway of any State, or civil subdivision thereof, which falls within classes A, B, or C, for the purpose of transporting rural mail, compensation for such use shall be made at the rate of twenty-five dollars per annum per mile for highways of class A, twenty dollars per annum per mile for highways of class B, and fifteen dollars per annum per mile for highways of class C. The United States shall not pay any compensation or toll for such use of such highways other than that provided for in this section, and shall pay no compensation whatever for the use of any highway not falling within classes A, B, or C.

SEC. 3. That any question arising as to the proper classification of any road used for transporting rural mail shall be determined by the Secretary of Agriculture.

SEC. 4. That the compensation herein provided for shall be paid at the end of each fiscal year by the Treasurer of the United States upon warrants drawn upon him by the Postmaster General to the officers entitled to the custody of the funds of the respective highways entitled to compensation under this act.

SEC. 5. That this act shall go into effect on the first day of July, nineteen hundred and thirteen.

The basic principle of this bill is compensation by the Federal Government for the use of the roads traveled by the mail carriers in the star route and Rural Delivery Service.

The constitutional power of the Federal Government to construct or promote works of internal improvement has been debated from the foundation of the Republic. Heretofore the question of Federal aid to the construction or maintenance of highways has been considered from the point of view either of appropriations in aid of the construction of such works as are authorized by the States and are national in their character or of appropriations for the direct construction of roads and canals in order to "facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense." The chief obstacle thus far in the path of appropriations in aid of road making or of road maintenance within

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the several States has been the indisposition on the part of the States to agree to any measure of Federal control or authority over their roads. No practicable scheme of joint operations using in part Federal and in part State money has been or is likely to be devised. One sole and responsible agency, whether State or Federal, must do the work, and all the funds appropriated for this work, whether county, State, or national, should be turned over to this agency. This is what this bill proposes to do with respect to Federal payments in compensation for use of the State roads.

The specter of Federal interference with State or local affairs has been eliminated by the form in which compensation will be made. The public is familiar with the system in vogue of compensating the railroads for the transportation of mail matter and of Government agents and agencies connected with the mail service. The aggregate of these payments in the last fiscal year amounted to about $51,000,000. Thousands of miles of exclusively State roads are in use by rural and star route carriers. At present these roads are maintained by the States, though the Federal Government enjoys their free and uninterrupted use for its mail service, whether by rural or star route carriers. No reason is perceived why the Government should not pay for use of these highways, the amount of the payment to be determined in any given instance by the character of the road traveled by Federal employees performing Federal service. For the purpose of this determination the bill divides the roads in use, or to be used for this purpose, into three classes.

Class A is the highest form of improved road in country use. For a road of this character, used in the rural-delivery and star-route service, it is provided that the Government shall pay at the rate of $25 per mile per year.

Class B is the next form of improved road defined in the bill, a road of high quality but not so good as that defined in class A. For this road the compensation fixed is at the rate of $20 per mile per year.

Class C comprehends the ordinary dirt roads of the country, and for these roads the prescribed compensation is at the rate of $15 per mile per year.

Payments are to be made at the end of each year to the appropriate custodian of the road funds, on the warrant of the Postmaster General. No payment will be made for a road not falling within one of the prescribed classes, and as the determination of the proper character of the road used will be at all times in the hands of the agents of the Federal Government, the interests of the Government in this respect will be adequately conserved. If the road is not maintained to the prescribed standard, the road authorities will not be entitled to receive compensation. If it is maintained to the standard for a portion of the year, then the compensation will be paid pro rata. The most zealous and tenacious advocate of State rights will be unable to find in this bill any encroachment upon those rights. The States will maintain and control their highways, and the Federal Government will pay for using them, provided that they are adequately maintained in the prescribed condition. If the maintenance of State roads is a function of the States that function will not be trenched upon or in anywise impaired by this bill. The States will continue in the sole and exclusive control of the State highways, and will be under no compulsion to receive the payments contem-

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plated for their use. It is hardly necessary to enlarge upon the benefits to the whole public that will follow upon the general improvement of the highways in the several States. In the matter of good roads, this country lags behind the older countries of the civilized world. In part this is due to the fact that this country is the only one of the great powers that makes no national contribution either to the construction or to the maintenance of public roads. For this our dual system of government is largely responsible, since this duality has made it difficult to furnish this aid in such a manner as to reconcile the conflicting rights and interests of the States and the Nation.

It is believed that the measure proposed is not only no infraction of the Constitution but is in harmony with its general purpose. The number of miles of State roads now traveled by the rural and star-route carriers is approximately 1,179,000. The mileage in class A is 35,000 miles, in class B, 83,000 miles, and in class C, 1,061,000 miles. According to the prescribed scheme of payments the amount per year that this bill will carry on the above basis, should payments be made for the entire mileage, will be $18,450,000. But it must be borne in mind that only a small proportion of this aggregate mileage is in condition to receive immediate compensation.

The improved roads, totaling 118,000 miles, may be considered as ready to comply with the requirements of the bill and receive compensation, but the aggregate payments on this account will be only $2,535,000 per year. A very large proportion of the mileage of dirt roads will require much work at the hands of the local authorities before any claim for compensation can be presented. Hence it is believed that for the first year the payments on this account will be comparatively small, the exact amount required being impossible of estimate. In proportion as the mileage of the rural and star routes increases and dirt roads are improved so as to fall within class A, class B, or class C, the payments under this bill will increase, but the increase will be a legitimate and natural evolution. The inevitable effect of this measure will be not only an immediate improvement of the roads of all the States but a stimulus to road construction in every direction.

The tendency of road building hereafter will be in the direction of a steadily progressive change in the character of the State roads, the dirt roads being transformed into improved roads as rapidly as possible, so as to entitle the local communities to receive the larger tolls contemplated for roads of the latter description. The universality of the benefit of this measure is one of its striking features of merit. It will touch every State and practically every community. Wherever a rural or a star route runs, however remote that route may be from the great centers of trade and commerce, the stimulating effect of this bill upon road improvement will be proportionately felt. So far from stifling or impeding the spirit of local improvement and development, this measure of Federal compensation for roads actually used will energize that spirit, since the payments provided will swell the local contributions into a working total. On the whole, it is submitted that the bill is meritorious in its purpose and constitutional in its character.

This measure is the composite production in conference of a number of members who have heretofore shown their interest in the subject

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of national aid to roads by the introduction of bills on this subject. At the time this measure was introduced in the House, Mr. Shackleford, of Missouri, made the following statement as a part of his remarks:

Mr. Speaker, those participating in the conference signed the following document:

To the Committee on Agriculture:

The undersigned Members, who have introduced bills on the subject of good roads, desiring to secure, as far as possible, harmony and unity of action among the friends of such legislation, have conferred with a view to agreeing upon a bill. After careful consideration we have prepared and agreed upon the subjoined bill and requested Mr. Shackleford to introduce it on behalf of us all. We have further requested Mr. Shackleford to appear before you and respectfully bespeak for the bill early and favorable consideration.

Very respectfully,

Ezekiel S. Candler, Mississippi; J. Thomas Heflin, Alabama; Thos. L. Rubey, Missouri; John J. Whitacre, Ohio; Joseph Taggart, Kansas; Joseph Howell, Utah; James F. Byrns, South Carolina; Kenneth D. McKellar, Tennessee; E. W. Saunders, Virginia; William B. Francis, Ohio; Richard W. Austin, Tennessee; Scott Ferris, Oklahoma; D. R. Anthony, jr., Kansas; George White, Ohio; Walter L. Hensley, Missouri; James M. Cox, Ohio; George A. Neeley, Kansas; J. J. Russell, Missouri; J. H. Goeke, Ohio; H. D. Flood, Virginia; Burton L. French, Idaho; T. T. Ansberry, Ohio; C. C. Anderson, Ohio; P. P. Campbell, Kansas; S. F. Prouty, Iowa; W. C. Adamson, Georgia; Bird McGuire, Oklahoma; D. W. Shackleford, Missouri.

After its reference to the Committee on Agriculture, the bill was referred to a subcommittee as follows: Mr. Rubey, Mr. Lever, Mr. Beall, Mr. Simmons, and Mr. Hanna.

After careful consideration, the subcommittee approvingly reported the measure to the full committee. The examination of the full committee confirmed the indorsement of the subcommittee, and the bill was ordered to be reported with favorable recommendation.

The figures as to the mileage of the improved roads were obtained from the Agricultural Department, while the figures as to the roads traveled by the star route and rural route carriers were furnished by the Post Office Department. In this connection the statement afforded by the latter department is reproduced for the information of the House.

STATEMENT SHOWING THE NUMBER AND MILEAGE OF RURAL AND STAR ROUTES, FURNISHED BY THE HON. P. V. DE GRAW, FOURTH ASSISTANT POSTMASTER GENERAL.

1. On April 1, 1912, the total number of star routes in operation was 12,656, the number of miles traveled daily on these routes being 318,280.

2. The star routes classified as to frequency of service are as follows:

Times served per week.	Number of routes.	Times served per week.	Number of routes.
1	196	18	102
2	875	19	36
3	2,346	20	9
4	11	21	8
5	1	24	38
6	7,368	25	9
7	371	26	4
8	2	27	3
11	1	28	5
12	1,118	30	4
13	94	32	1
14	53	33	1

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3. The total number of rural routes in operation is 42,100, of which 681 are served triweekly.

4. On April 1, 1912, the total number of rural and star routes in operation in each State was as follows:

States.	Rural.	Star.	States.	Rural.	Star.
Alabama	1,017	295	Nevada	3	81
Arizona	11	83	New Hampshire	237	132
Arkansas	417	598	New Jersey	303	119
California	378	424	New Mexico	15	229
Colorado	150	257	New York	1,899	550
Connecticut	279	57	North Carolina	1,306	432
Delaware	107	14	North Dakota	531	222
District of Columbia	7	.....	Ohio	2,530	183
Florida	202	233	Oklahoma	1,026	337
Georgia	1,639	169	Oregon	230	245
Hawaii	.....	26	Pennsylvania	2,203	639
Idaho	112	167	Porto Rico	.....	33
Illinois	2,856	99	Rhode Island	43	19
Indiana	2,120	99	South Carolina	774	135
Iowa	2,424	55	South Dakota	559	208
Kansas	1,802	148	Tennessee	1,605	244
Kentucky	733	943	Texas	1,912	679
Louisiana	181	333	Utah	51	124
Maine	468	297	Vermont	340	144
Maryland	437	156	Virginia	1,013	699
Massachusetts	299	144	Washington	301	198
Michigan	2,027	173	West Virginia	369	514
Minnesota	1,594	195	Wisconsin	1,642	170
Mississippi	779	367	Wyoming	10	154
Missouri	2,067	468			
Montana	45	209	Total	42,100	12,656
Nebraska	1,047	231			

5. The aggregate mileage traveled by rural and star route carriers is as follows:

Rural delivery:	
Daily travel	1,010,396
Annual travel	310,191,572
Star route:	
Daily travel	318,280
Annual travel	84,678,423

6. The total length of routes is:

Rural delivery	1,018,909
Star delivery	[1] 160,058

[1] Total length of star routes is based upon travel one way only.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 539.

LEVEE ACROSS A BRANCH OF ST. FRANCIS RIVER, MO.

APRIL 12, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HAMLIN, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 21590.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 21590) to authorize levee and drainage district No. 25, of Dunklin County, Mo., to construct and maintain a levee across a branch or cut-off of St. Francis River, in Missouri, having considered the same, report thereon with amendment, and as so amended recommend that it pass.

The bill as amended has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

Amend the title so as to read:

To authorize levee and drainage district No. 25, of Dunklin County, Mo., to construct and maintain a levee across a branch or cut-off of St. Francis River, and to construct and maintain a levee across the mouth of the Varney River, in the State of Missouri.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 8, 1912.

The SECRETARY OF WAR.

SIR: 1. I have the honor to return herewith a letter, dated the 1st instant, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. R. 21590, Sixty-second Congress, second session, a bill to authorize levee and drainage district No. 25, of Dunklin County, Mo., to construct and maintain a levee across a branch or cut-off of St. Francis River in Missouri.

2. The object of this bill is to give the consent of the Federal Government to the construction of a levee or embankment across an arm or cut-off of the Francis River, and also across the mouth of a small stream known as Varney River, for the purpose of drainage and land reclamation. The work is to be done by a local organization formed for the purpose under the laws of the State.

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3. The project has been the subject of consideration and discussion at a public hearing held by the district engineer officer at the Dunklin County courthouse at Kennett, Mo., of which due notice was given the people concerned by posters and by advertisement in the press. This hearing was attended by about 125 people, and full opportunity for an expression of their views was accorded to all. The project was apparently favored by everyone present, no opposition being voiced by anyone.

4. Some years ago, at a suitable point along the St. Francis River, a cut-off was made, diverting the water from the main stream and forming a new channel through the cut-off and Varney River. This channel was used for a while, but as it was not maintained properly it gradually deteriorated, and the cut-off at present is stated to be grown up with trees to such an extent that the location of the channel is indeterminate. The district engineer officer reports that the main channel is now in the original St. Francis River; that the carrying out of the project for levee construction would confine the water to that channel, thus improving it as a commercial highway; and that, in addition to being a benefit to the river, the reclamation of a considerable area of fertile land would be facilitated.

5. It is evident that the proposition embraced in the bill is unobjectionable so far as general navigation is concerned, such commerce as exists being chiefly of a local character. In my judgment, the question of the extent to which this limited navigation should yield to the more important and valuable interest of land reclamation is one that may safely be left to the determination of the local public. The people concerned apparently approve, with practical unanimity, the proposed scheme of levee construction as set forth in the bill, and from the standpoint of navigation interests, I see no reason why Congress should withhold its consent to the execution of the said scheme.

Very respectfully,

W. H. BIXBY,
Chief of Engineers, United States Army.

[First indorsement.]

WAR DEPARTMENT, *April 11, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the accompanying report of the Chief of Engineers, United States Army, dated 8th instant.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 540.

REPEAL OF SECTION 4716, REVISED STATUTES.

APRIL 12, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RICHARDSON, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 18434.]

The Committee on Pensions, to whom was referred the bill (H. R. 18434) entitled "A bill to repeal section 4716 of the Revised Statutes of the United States," have examined the same and would report:

Section 4716 of the Revised Statutes reads as follows:

> No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

This section in substance, though worded a little differently, appeared originally as a proviso to section 4 of the act approved July 14, 1862. It was in its present form made section 23 of the act approved March 3, 1873. At the present time it stands, as its number indicates, a section of the Revised Statutes. This section, as originally drawn, was very sweeping in its provisions, but Congress has, at various times, exempted from its provisions certain possible pensioners, as follows:

By an act approved March 9, 1878, dependents of soldiers of the War of 1812 and the Indian wars were exempt.

By an act approved January 29, 1887, dependents of the soldiers who served in the Mexican War were exempt.

By an act approved July 27, 1892, the dependents of soldiers who served in the Black Hawk War, the Creek War, the Cherokee disturbances, and the Seminole War were exempt. Later, this exemption was extended to the veterans of all the other Indian wars and to the survivors of the Texas Volunteers and their widows.

By the act of March 3, 1877, all those who voluntarily served in the Army of the United States, and by the act of August 1, 1892, all those who voluntarily served in the Navy of the United States, and who, during such service, contracted disability, were exempt.

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By the act of April 18, 1900, the dependents of soldiers, sailors, and marines who served in the War with Spain were exempt.

By a joint resolution approved July 1, 1902, construing "An act granting pensions to soldiers and sailors who were incapacitated for the performance of manual labor," which act had been approved June 27, 1890, the benefits of said act were extended to all persons, and the widows and minor children of all deceased persons subject to the limitations of said act, who had served for 90 days in the military or naval service of the United States during the late War of the Rebellion, and the resolution amended section 4716 to comply therewith, except in the case of persons who served in the First, Second, Third, Fourth, Fifth, and Sixth Regiments, United States Volunteer Infantry, who had a prior service in the Confederate Army or Navy, and who had enlisted in said regiments while confined as prisoners under a stipulation that they were not to be pensionable under the laws of the United States, and those who having had prior service in the Confederate Army or Navy had enlisted in the military or naval service of the United States after the 1st day of January, 1865.

The bill now pending (H. R. 18434) proposes to repeal absolutely the section which has been so much modified by the legislation to which reference has been made.

According to the Department of the Interior:

> It may be said * * * that practically the only class of persons who would be benefited by the passage of bill H. R. 18434 would be those persons who, having had a prior service in the Confederate Army or Navy, enlisted in the military or naval service of the United States subsequent to January 1, 1865. The exact number of such enlistments is not known, but it is of record that the Fifth and Sixth Regiments of United States Volunteers, made up of prisoners of war, were recruited and mustered into the service of the United States subsequent to January 1, 1865. There were doubtless many individual enlistments subsequent to that time, and as the provisions of the joint resolution of July 1, 1902 (32 S. L., 750), did not remove the limitation imposed by section 4716, Revised Statutes United States, as to such persons, they would be benefited in some degree at least by the enactment of the bill submitted.

It can not be told definitely how many possible pension claims this change in the law might affect. But it is hardly probable that more than 1,000 cases would be brought under it. Should these all be allowed it would involve an addition to the pension expenditures of a little less than $175,000.

At the first session of the Fifty-sixth Congress the Committee on Pensions of the Senate recommended the repeal of this section 4716, of the Revised Statutes. (See Rept. No. 608, to accompany S. 2500.)

Your committee also believe that now, 48 years after the close of the war between the States, it is time that this section should be removed from the statute books. Therefore, your committee recommend the passage of the bill with the following amendment.

After the word "repeal," in line 5, strike out the period and insert a comma, and add:

> *Provided, however*, That no name of any pensioner which may have been dropped from the rolls under the provisions of this section shall be restored thereto, nor that of any person whose application for pension has been rejected or who may hereafter apply for pension shall be placed thereon, prior to the date of filing an application in the Bureau of Pensions after the passage of this act.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 541.

TO REGULATE OPERATION OF VEHICLES OF METROPOLITAN COACH CO.

APRIL 12, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ANDERSON of Ohio, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany S. 2904.]

Your committee have had under consideration Senate bill 2904, duly referred to it by the House of Representatives, and report the same, recommending its passage with the following amendments:

Line 10, page 2, strike out all after the word "vehicles" down to and including the word "them" in line 12, page 2.

Line 13, page 2, after the word "such" insert the word "reasonable."

Line 14, page 2, strike out the words "and for such rates and charges."

Line 9, page 3, strike out all after the word "after" down to and including the word "twelve" in line 10, page 3, and insert the words "six months from the date of its passage."

Insert a new section as follows:

SEC. 5. The vehicles of the Metropolitan Coach Company shall follow its present route to Fifteenth Street and Pennsylvania Avenue, and shall go thence west to Madison Place, north to H Street, east to Fifteenth Street, and thence to Sixteenth and U Streets by the route followed coming south, and said company, if it so elects, shall be permitted, in lieu of sending its vehicles west on Pennsylvania Avenue as above provided, to send them south on Fifteenth Street and east on Pennsylvania Avenue to Eighth Street west, and thence reverse to Sixteenth and U Streets.

Insert a new section as follows:

SEC. 6. That said company shall issue to all passengers received by it north of H Street northwest and desiring same a transfer ticket to the cars of the Capital Traction Company at the intersection of Fifteenth Street and New York Avenue and Pennsylvania Avenue northwest, said transfer ticket to be good for passage on the cars of the Capital Traction Company going south or west, and the said Capital Traction Company shall receive and transport on its said cars said passengers on said transfer tickets without the payment of additional fare, and the said Capital Traction Company shall issue to all its passengers desiring same, on cars going east on Pennsylvania Avenue

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and north on Fifteenth Street, at said intersection, a transfer ticket to the coaches of the said Metropolitan Coach Company, and the said Metropolitan Coach Company shall receive and transport on its coaches said passengers on said transfer tickets with-the payment of additional fare.

Insert a new section as follows:

SEC. 7. That said Metropolitan Coach Company shall issue to all its passengers desiring same a transfer ticket to the cars of the Washington Railway & Electric Company at at the said intersection of Fifteenth Street, New York Avenue, and Pennsylvania Avenue Northwest, said transfer ticket to be good for passage on the cars of the said Washington Railway & Electric Company, and the said Washington Railway & Electric Company shall receive and transport on its said cars said passengers on said transfer tickets without the payment of additional fare and the said Washington Railway & Electric Company shall issue to all its passengers desiring same at said intersection, a transfer ticket to the coaches of the said Metropolitan Coach Company, and the said Metropolitan Coach Company shall receive and transport on its coaches said passengers on said transfer tickets without the payment of additional fare.

Insert a new section as follows:

SEC. 8. Any company named herein that fails to comply with the requirements of sections 6 and 7 of this act shall be punished by a fine of not more than $100 for each violation thereof and prosecution shall be made as prescribed in section 4 of this act. That the Commissioners of the District of Columbia shall make and enforce the regulations necessary to carry the provisions of these sections into effect.

Line 20, page 3, after the word "That," insert "all acts and parts of acts inconsistent herewith are hereby repealed and".

Renumber present section 5, making it section 9.

Renumber present section 6, making it section 10.

There is unquestionably a vigorous demand in the community for the services rendered by the Metropolitan Coach Co., particularly throughout the territory adjacent to that portion of the line running from Sixteenth and U Streets to the intersection of Fifteenth Street, New York Avenue, and Pennsylvania Avenue. The region from the last-named point to Twenty-second and G Streets, west, seems now to be well supplied by the service of the Capital Traction Co. whose lines run over this route, having been laid subsequent to the beginning of the service of the Metropolitan Coach Co.

Your committee has carefully considered the bill, which, before its passage by the Senate, was submitted to the Commissioners of the District of Columbia, by the Senate committee and recommended by the commissioners. It is believed that the bill as reported will compel the company to render a sanitary, regular, and satisfactory service, but the company insists that as passed by the Senate the bill, if unamended, will make it impossible to secure the capital necessary to reequip the line as required by the bill, and your committee believes this is true.

The amendments suggested eliminating the power given to the Commissioners of the District of Columbia to locate routes, under which provision it is patent capital could not be interested, and further changing the line by eliminating the western part of the route, and by assuring the company that it shall have the transfer privilege with the Capital Traction Co. and the Washington Railway & Electric Co. at the intersection of Fifteenth Street, New York Avenue, and Pennsylvania Avenue, under regulations to be drafted and enforced by the commissioners, will, it is believed, so rehabilitate the service that the management can comply with the terms of the proposed law and still make a reasonable return on the additional large investment which will be necessary.

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It is suggested that, in the event the Capital Traction Co. should refuse to exchange free transfers with the Metropolitan Coach Co. until the right of Congress to require it so to do has been determined by the courts, the Metropolitan Coach Co. should have the right to reach the region about the Center Market and the bill so amended gives the company this privilege, which your committee believes they should have as protection for the time that will elapse until the courts can dispose of the question of law if the Capital Traction Co. should refuse the privilege.

As amended, your committee is in favor of the passage of the bill, and if enacted it will serve a region which can not be reached otherwise, as it is not believed Congress would ever permit street car tracks to be laid on Sixteenth Street.

From statements made to your committee the present management has expended a large sum in experimenting with motor vehicles and has continuously operated at a loss since the law was passed requiring motor vehicles, but it is believed most of the problems of this service have now been solved and if the amendments are incorporated in the law the service will be rehabilitated.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 542.

OMISSION TO RETURN LIBRARY PROPERTY, DISTRICT OF COLUMBIA.

APRIL 12, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. PROUTY, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 22643.]

The Committee on the District of Columbia, to whom was referred H. R. 22643, report the same back to the House with the recommendation that it do pass without amendment.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 543.

TO PROHIBIT RAISING FUNDS FOR LOBBYING PURPOSES.

APRIL 12, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. PROUTY, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 22912.]

The Committee on the District of Columbia, to whom was referred H. R. 22912, report the same back to the House with the recommendation that it be amended by striking out the word "accordingly" in the seventh line thereof and inserting in lieu thereof the following:

By a fine of not more than $500, or imprisonment not exceeding six months, or both, at the discretion of the court having jurisdiction thereof.

And that so amended it pass.

Section 1 of this bill is designed to correct a serious abuse that has grown up here, as elsewhere, namely, professional lobbying under disguise. It prevents anyone from lobbying for hire without disclosing that fact, and, upon request, disclosing by whom hired. It does not prevent anyone from appealing to the committees or Members of Congress, as attorney or otherwise, for hire, if that fact is disclosed. But the committee feels that Congressmen have a right to know in what capacity one appears before them—whether as a real friend of the measure or as a paid attorney or lobbyist.

Section 2 is intended to abate two things: First, the raising of large sums of money by civil-service employees for the purpose of lobbying through measures in their behalf. Second, the preventing of professional lobbyists taking advantage of such employees to extort money or promise of money from them under the hope of securing desired legislation. We believe it is alike wrong for such employees to use money received from the Government to set in motion influences to secure more money from it and for the professional lobbyist to take part of such money, designed for the employee, for his supposed service in securing it, without the real situation being disclosed to Congress before the bill is passed.

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It recently came to the attention of this committee that there was a contract concerning a bill it had favorably recommended, and which had passed both branches of Congress, that provided that the one who had charge of getting the bill through Congress was to receive $5 a month for one year from the advance in salary granted one class of employees and $10 a month for a like time from another class. The committee believes that such contracts ought to be declared void and against public policy.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 546.

ESTABLISHMENT OF AGRICULTURAL EXTENSION DEPARTMENTS.

APRIL 13, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LEVER, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 22871.]

The Committee on Agriculture, to whom was referred the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, having considered the same, beg to report it back to the House with amendments and with the unanimous recommendation that the bill as amended do pass.

The object of the bill is to establish agricultural extension departments under the direction of the land-grant colleges of the several States to aid in carrying to the people useful and practical information on subjects relating to agriculture and home economics through field instruction, demonstrations, publications, and otherwise.

The Federal Government has committed itself emphatically and irrevocably to the policy of appropriating money to aid in the encouragement, development, and preservation of agriculture, both in the maintenance of its most efficient Department of Agriculture and through a series of legislative enactments endowing agricultural colleges and establishing agricultural experiment stations in the several States. Thus agriculture has been recognized as of supreme importance to the Nation, and is so recognized by every thoughtful student of present economic conditions.

Liberal as we have been toward our agriculture, the fact remains that this Government expends less money for its encouragement and development, in proportion to its population and the extent of its agricultural area, than any nation of Europe, with the possible exception of Spain. It was recently pointed out, in a reliable farm journal, that less than 1 per cent of the annual total appropriations of the Government is expended for purposes of aiding agriculture—a most significant statement when agriculture is unquestionably the basic

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industry upon which is builded every other industry and upon which is dependent the real prosperity of the Nation.

The enactment of the first Morrill Act, "for the endowment, support, and maintenance of at least one college where the leading object shall be * * * to teach such branches of learning as are related to agriculture and the mechanic arts," was epochal, being the first serious national effort to aid agriculture in a practical way. As a result of this encouragement and Federal recognition, every State has a well-equipped agricultural and mechanical college, training its young men to solve agricultural and industrial problems.

It was soon discovered that their peculiar difficulty lay in a lack of sufficient, definite, and exact scientific information. Realization of this insufficiency became so manifest and so insistent that the Hatch Act, establishing agricultural experiment stations, "to promote scientific investigation and experiment, respecting the principles and applications of agricultural science," was enacted 25 years after the land-grant colleges were authorized. Under this act agricultural experiment stations, devoting their energies to gathering scientific truths and exploding harmful fallacies touching agriculture, have been established in each of the States.

Subsequent legislation has been confined to the enlargement of the funds for the furtherance of the fundamental ideas involved in the original Morrill and Hatch Acts, since the enactment of which the Federal Government has expended $67,000,000 upon these institutions, as follows:

Statement showing the amount of money that has been expended by the Federal Government for State experiment stations and agricultural colleges.

STATE EXPERIMENT STATIONS.

Total amount expended under the Hatch Act from 1888 to June 30, 1911	$16,807,338.94
Total amount allotted under the Hatch Act during the fiscal year 1912 up to and including the quarter ending Mar. 30, 1912	540,000.00
Total under Hatch Act	17,347,338.94
Total amount expended under the Adams Act from 1906 to June 30, 1911	2,828,665.21
Total amount allotted under the Adams Act during the fiscal year 1912 up to and including the quarter ending Mar. 30, 1912	540,000.00
Total under Adams Act	3,368,665.21
Total for State experiment stations under both acts	20,716,004.15

STATE AGRICULTURAL COLLEGES.

Total amount paid from 1890 to 1912, inclusive, under the acts of Aug. 30, 1890, and Mar. 4, 1907	28,802,000.00
Proceeds from sale of land	13,348,041.00
Value of unsold land (estimated)	5,042,388.00
Total for agricultural colleges under both acts, etc	47,192,429.00

RECAPITULATION.

Total for State experiment stations	20,716,004.15
Total for agricultural colleges	47,192,429.00
Grand total	67,908,433.15

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When it is remembered that only a very small per cent of the people can enjoy the direct benefits of these institutions, it is evident that the system of Federal aid to agriculture is yet incomplete. "The colleges deal with ideas; the stations with facts. The colleges teach theories of agriculture; the stations prove good theories and disprove poor ones." The stations gather facts of a practical and scientific nature; the colleges disseminate these facts, but only to limited numbers in proportion to the total rural population.

Your committee believes that this bill is the next logical, necessary step to give this country the most comprehensive system of governmental aid to agriculture in the world. The central idea of the bill is to bring to the farmer, upon the farm, this information, these scientific truths, and these better methods of agriculture which the colleges and stations have been and are gathering. Past legislation has resulted in the accumulation of valuable agricultural information; this bill proposes to disseminate it in the most practical and far-reaching manner.

Objection can not be urged to the bill on the theory that it proposes to commit the Government to a new and untried policy. It seeks only to give fuller force and more complete effect to the agencies already created by congressional action. Thirty-four of the States are now supporting, through their agricultural colleges, some kind of agricultural extension departments; but, as urged before the committee, the moral effect of the aid of the Federal Government upon this line of work will be of incalculable value in further extending and promoting it.

The bill has received the most emphatic indorsement of the leading agricultural thinkers of the country, the rural press, influential business associations, agricultural organizations, and is explicitly commended by President Taft in his address at the Kansas City Conservation Congress, in this language:

> The welfare of the people is so dependent on improved agricultural conditions that it seems wise to use the welfare clause of the Constitution to authorize the expenditure of money for improvement in agricultural education and leave to the States and private enterprise general and other vocational education. The attitude of the Government in all this matter must be merely advisory.
>
> It is now proposed to organize a force of 3,000 men, one to every county in the United States, who will conduct experiments within the county for the edification and education of the present farmers and of the young embryo farmers who are being educated. It is proposed that these men shall be partly paid by the county, partly by the State, and partly by the Federal Government; and it is hoped that the actual demonstration on the farms in the county—not agricultural stations or schools somewhere in the State—but in the county itself, shall bring home to the farmers what is possible to do with the very soil that they themselves are engaged upon.

The principle of agricultural extension work, through field instruction and demonstrations, is recognized by every leading country of Europe, including the British Empire, Austria, Bulgaria, Denmark, France, Hungary, Italy, Holland, Germany, Russia, and Belgium.

It is a significant fact that 25 years ago the agriculture of Belgium was in a most deplorable and discouraging condition. The wise men of the nation, seeking a remedy for this situation, established a system of extension work in agriculture, such as is proposed in this bill, which in this brief period has completely revolutionized this foundation of all industries and governments, and has placed Belgium in the front rank of agricultural nations. The committee desires to submit the following brief authentic table, showing the remarkable results

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obtained only through the influence of this work of teaching the adult rural population of Belgium:

Crop.	1880-1885	1907-1910	Increase.
	Bushels.	*Bushels.*	*Bushels.*
Wheat	24.54	38.55	14.01
Rye	23.86	36.69	12.73
Oats	49.79	81.48	31.69
Barley (winter)	38.25	57.57	19.32

It is likewise significant, as pointed out by authorities in agriculture, that the farmers of Europe are producing two and one-half to three times as much per acre as American farmers, and this in the face of the fact that the European lands have been under cultivation for many centuries and were perhaps originally not so fertile as ours.

Fortunately the conditions of Belgium, before the establishment of agricultural extension departments, as yet have not come entirely upon our country, but your committee is not unmindful of the striking similarity in tendencies. Soil fertility is undeniably decreasing, especially in the older States, and production is failing to keep pace with the demands of the nonagricultural classes. At the present ratio the time is not far in the future when we shall cease to produce sufficient foodstuffs with which to supply the Nation. It becomes the imperative duty of Congress to check these tendencies which, if permitted to continue, must bring about a deplorable condition. Your committee recommends this bill as furnishing a remedy with which to avoid these inevitable consequences—a remedy found all-sufficient in Belgium and other European countries and which is not entirely untried in this country.

Some years ago the ravages of the cotton-boll weevil in Texas attracted the attention of the Nation, and Congress appropriated liberally to the effort to stamp it out. The necessity for a vigorous campaign to save the cotton crop of the South resulted in the formation of the farmers' cooperative demonstration work in 1904, organized by and under the direction of the late Dr. Seaman A. Knapp. The salient features of this system are:

First, the personal contact of the instructor with the farmers receiving instructions; secondly, the participation of the farmer receiving instruction in the actual demonstration of the lesson to be taught; thirdly, the certainty of success under normal conditions of the method advocated. From a small beginning, with but few trained men in the field, it has grown, developed, and been systematized into a great movement for the wide dissemination of agricultural knowledge for the man, the wife, the boy, and the girl on the farm. * * * To-day it is directly instructing practically 100,000 farmers, 75,000 farmers' boys, and 25,000 farmers' girls. The farmers are divided into two classes—the one class called the "demonstrators," whose farms are actually visited by an agent once in every 30 days during the crop-growing season, or practically 8 to 10 times each year, and even more; the other, called "cooperators," are grouped around about the farm of the demonstrator, and are called together upon it for the purpose of coming into contact with the agent and receiving personal instruction. * * * Briefly stated, it seeks to press home such lessons as the better drainage of the soil, the deeper and more thorough preparation of soil for planting, the value of better seed, how to produce it, how to select it and keep it pure, the testing of seed before planting, the proper spacing of plants to suit the plant, soil, and climate, the value of intensive cultivation during the growing season for conservation of moisture, the importance of humus in the soil, and the use of barnyard manure, farm refuse, and commercial fertilizers, the value of crop rotation and winter cover crops on southern farms, for maintenance and building up of fertility, the use of more horse power and less hand power, and the accomplishment of more work in a day, the use of better tools for the same purpose, the great importance of live stock as a part of the permanent

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system of agriculture, the production of all home supplies of food required for men and animals on the farm, and the keeping of an account in order to know whence the profits and whence the loss in the farm operations.

The foregoing is an outline of the work as given by Dr. Bradford Knapp in a recent address. Your committee is informed and believes that this system of bringing home to the actual farmer upon his actual farm the best methods of agriculture is working a revolution in the agriculture of the South. The proposed legislation intends to do this same kind of work on a bigger, broader, and better scale, under the direction of State rather than Federal authorities, believing that each State has its own peculiar problems which can be worked out best under local environment. Your committee confidently expects the system provided for in the bill recommended for your favorable consideration to do for the whole country, in a larger measure, what has been accomplished for the South in a smaller way under the farmers' cooperative demonstration work.

Your committee submits for the information of the House the following brief analysis of the bill by sections:

Section 1 authorizes that agricultural extension departments may be established in each State in connection with its land-grant college or colleges and permits the State in which two or more such colleges have been or shall be established to designate which may administer the funds.

Section 2 defines the object and duty of these agricultural extension departments to be to give instruction and practical demonstrations in agriculture and home economics through field demonstrations, publications, and otherwise.

Section 3 makes frankable printed matter and correspondence for the furtherance of the purposes of the act, issued from the agricultural colleges or by agents of the extension departments thereof. This privilege is necessary in order that the plan of the bill may be executed.

Section 4 is the appropriating section of the bill and provides that a sum of $10,000 shall be appropriated annually to each State which shall assent to the provisions of the act. This annual appropriation is a straight, unconditional appropriation to the several States, and amounts each year to a charge upon the Treasury of $480,000. The additional sum of $300,000 is appropriated for the fiscal year 1914 and an annual increase of this appropriation of $300,000 a year, over the preceding year, for a period of nine years is provided until the total amount of additional appropriations will be the sum of $3,000,000 annually. But these additional appropriations, or this sum of $3,000,000 annually, is to be allotted among the several States in the proportion which their rural population bears to the total rural population of the United States, as determined by the next preceding Federal census. The Census Bureau defines as "urban population that residing in cities and other incorporated places of 2,500 inhabitants or more, including the New England towns of that population." The bill provides a sum of $10,000 per year to each State unconditionally, and provides also that no State is to be entitled to any part of its allotment of the additional sums until its legislature has provided for the establishment of agricultural extension departments, as provided in section 1 of this bill, and it requires further that no State shall receive of these additional appropriations a sum exceeding the sum appropriated by its legislature for that year for this purpose, or

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provided by State, county, college, or local authority. The idea is that there must be furnished to these extension departments by some authority other than the Federal authority as much as is provided by the Federal Government—no more and no less.

For example, the allotment to a given State might be the sum of $50,000, which the State would receive if it should duplicate this amount, but it might happen that the State would desire to appropriate for such a purpose only $25,000, in which event such State would be entitled only to $25,000 of the Federal funds in addition to the $10,000 which is given each year unconditionally. The committee submits a table showing the total population of the United States by States and the total rural population by States, and the amount of these additional sums to which each State will be entitled under the basis of allotment as provided in the bill when the act shall mature at the end of 10 years, to which must be added for each State the sum of $10,000 unconditionally appropriated.

The table is as follows:

State.	Total population.	Total rural population.	Per cent of total rural population in the United States and by States.	Amount of appropriation allotted each State.
United States	91,972,266	49,348,883	53.7	$3,000,000
Alabama	2,138,093	1,767,662	3.58	107,400
Arizona	204,354	141,094	.29	8,700
Arkansas	1,574,449	1,371,768	2.78	83,400
California	2,377,549	907,810	1.84	55,200
Colorado	799,024	394,184	.80	24,000
Connecticut	1,114,756	114,917	.23	6,900
Delaware	202,322	105,237	.21	6,300
Florida	752,619	533,539	1.08	32,400
Georgia	2,609,121	2,070,471	4.19	125,700
Idaho	325,594	255,696	.52	15,600
Illinois	5,638,591	2,161,662	4.38	131,400
Indiana	2,700,876	1,557,041	3.16	94,800
Iowa	2,224,771	1,544,717	3.13	93,900
Kansas	1,690,949	1,197,159	2.43	72,900
Kentucky	2,289,905	1,734,463	3.51	105,300
Louisiana	1,656,388	1,159,872	2.35	70,500
Maine	742,371	360,928	.73	21,900
Maryland	1,295,346	637,154	1.29	38,700
Massachusetts	3,366,416	241,049	.49	14,700
Michigan	2,810,173	1,483,129	3.01	90,300
Minnesota	2,075,708	1,225,414	2.48	74,400
Mississippi	1,797,114	1,589,803	3.22	96,600
Missouri	3,293,335	1,894,518	3.84	115,200
Montana	376,053	242,633	.49	14,700
Nebraska	1,192,214	881,362	1.79	53,700
Nevada	81,875	68,508	.14	4,200
New Hampshire	430,572	175,473	.35	10,500
New York	9,113,614	1,928,120	3.91	117,300
New Jersey	2,537,167	629,957	1.28	38,400
New Mexico	327,301	280,730	.57	17,100
North Carolina	2,206,287	1,887,813	3.83	114,900
North Dakota	577,056	513,820	1.04	31,200
Ohio	4,767,121	2,101,978	4.26	127,800
Oklahoma	1,657,155	1,337,000	2.71	81,300
Oregon	672,765	365,705	.74	22,200
Pennsylvania	7,665,111	3,034,442	6.15	184,500
Rhode Island	542,610	17,956	.04	1,200
South Carolina	1,515,400	1,290,568	2.62	78,600
South Dakota	583,888	507,215	1.03	30,900
Tennessee	2,184,789	1,743,744	3.53	105,900
Texas	3,896,542	2,958,438	5.99	179,700
Utah	373,351	200,417	.41	12,300
Vermont	355,956	187,013	.38	11,400
Virginia	2,061,612	1,585,083	3.21	96,300
Washington	1,141,990	536,460	1.08	32,400
West Virginia	1,121,119	992,877	2.01	60,300
Wisconsin	2,333,860	1,329,540	2.69	80,700
Wyoming	145,965	102,744	.21	6,300

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It made mandatory that not less than 75 per cent of all moneys available under this act shall be expended each year for field instruction and demonstrations. The remainder of the money is available for extension work proper, home economics, and allied subjects.

The remaining sections, 5, 6, 7, 8, 9, and 10, deal largely with the administrative features of the bill and follow closely the administrative features of the Hatch and Adams Acts.

The committee recommends the following amendments:

On page 2, line 7, after the word "two," insert the words "or more."

On page 5, line 4, after the word "equal," strike out the word "quarterly" and insert the word "semiannual."

On page 5, line 5, after the word "January," strike out the comma and the word "April" and the comma, and insert the word "and"; and after the word "July" strike out the comma and the words "and October."

On page 6, line 22, after the word "the," strike out the word "next"; and after the word "Congress" strike out the comma and insert the following: "next succeeding a session of the legislature of any State from which a certificate has been withheld."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 547.

WIDENING OF BENNING ROAD.

APRIL 13, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ADAIR, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 6083.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 6083) to amend an act entitled "An act for the widening of Benning Road and for other purposes," approved May 16, 1908, report the same back to the House with the recommendation that it do pass.

In their report on the bill (which is identical in terms with Senate bill 3700, 62d Cong., 2d sess.) as to its merits and the propriety of its passage, the Commissioners of the District of Columbia, under date of December 29, 1911, say:

> It is highly desirable that Benning Road should be widened, as it is one of the heaviest traveled roads in the District.

The committee believes there is no good reason for widening this road beyond Oklahoma Avenue, nor for extending the time in which to institute condemnation proceedings.

The bill is identical in its provisions with those of H. R. 3679, which passed the House of Representatives on the 10th of January, 1910, and is in accordance with the highway extension act.

The committee has given careful consideration to published protests recently made by the Washington Railway & Electric Co. and by the Washington, Baltimore & Annapolis Electric Railway Co., and find that such protests are without merit, for the reason that when those companies applied to the Commissioners of the District of Columbia for a permit to erect overhead structure and a station on land, a portion of which is to be condemned by this act, public hearings were given and such hearings were held in the board room at the District building, and at those hearings ample assurance was given the public by those companies "that the railroads have no ideas of erecting any permanent structures that will cause any conflict with the widening of Benning Road."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 549.

REMOVAL OF RESTRICTION FROM LANDS OF ALLOTTEES OF THE FIVE CIVILIZED TRIBES.

APRIL 13, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. CARTER, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 4948.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of the allottees of the Five Civilized Tribes, and for other purposes," having duly considered the same, reports the bill without amendment and recommends that it do pass.

Your committee adopts the report of the Senate Committee on Indian Affairs on this bill, which is as follows:

[Senate Report No. 548, Sixty-second Congress, second session.]

Your committee, having had under consideration Senate bill 4948, recommends that it pass.

By the act of April 26, 1906 (34 Stat. L., 137), it was provided in section 22 that deeds of full-blood Indians heirs should be subject to the approval of the Secretary of the Interior.

By section 9 of the act of May 27, 1908, a new method was provided, as follows, to wit:

"SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee."

The Supreme Court of Oklahoma has held that the fact of death, under the act of May 27, 1908, authorized the conveyance of any interest of any full-blood heir to be approved by the probate court of Oklahoma, and many deeds have been taken in accordance with this decision, regardless of whether the allottee died prior to May 27, 1908, or not.

The United States district court rendered a decision to the same effect in the case of Harris *v.* Gale (188 Federal, 712), and no appeal was taken from this decision, which was rendered June 29, 1911—nearly a year ago. Judge Campbell, the United States district judge, in his opinion, says:

"There being no conceivable reason why Congress should have intended to distinguish between conveyances by full-blood heirs of inherited lands made subsequent to the act of May 27, 1908, where the ancestor died prior to that date and where the

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ancestor died subsequent to that date, and the language of the act itself not so clearly evincing such an intention as to preclude the contrary construction, it is decided that by the said act any full-blood Indian heir of any deceased allottee of the Five Civilized Tribes is authorized to convey any interest in the lands inherited by him from such deceased allottee, upon approval thereof by the court having jurisdiction of the settlement of the estate of such deceased allottee, whether such death occurred before or after May 27, 1908, and the approval of such conveyance by the Secretary of the Interior is not required. Of course, in cases where such heir is a minor, the procedure to secure the necessary order and approval of the court must be as in cases of other minors."

The reason for the necessity of this act is that the Interior Department, through the Attorney General, has held that in cases where the death of allottee occurred prior to May 27, 1908, title passing by deed to the heirs could only be valid with the approval of the Secretary of the Interior, under the act of 1906.

Both the Federal court and the State court having held to the contrary, it is necessary that this act should be passed for the purpose of removing the cloud from these titles.

For the reasons given the committee advises the immediate passage of this bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 550.

OLD MARINE-HOSPITAL SITE, OCRACOKE, N. C.

APRIL 15, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. AUSTIN, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany H. R. 21481.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 21481) providing for the sale of the old marine-hospital site at Ocracoke, N. C., beg to report the same with the following amendment:

After the words "North Carolina," page 1, line 5, insert the words "to the highest bidder after due advertisement thereof."

The committee recommends that the bill do pass.

The old marine-hospital site at Ocracoke was abandoned by the Government several years ago. The property is worth only a small amount and there is no way in which it can be put to use. There is no probability of the property being needed for any Government purpose, and the Secretary of the Treasury, in submitting to the committee a list of vacant property in different portions of the United States which it was thought should be disposed of, included the abandoned site at Ocracoke. The recommendations of the Secretary of the Treasury are contained in House Document No. 58, first session Sixty-second Congress, page 3. The interests of the Government will suffer in no way by the disposal of this property, and your committee concurs in the belief of the Treasury Department that it should be sold, and unanimously recommends the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 552.

AMENDING SECTION 808, CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21712.]

The Committee on the District of Columbia, to whom was referred H. R. 21712, report the same back to the House with the recommendation that it do pass.

This bill was prepared by and introduced upon the request of the United States attorney for the District of Columbia.

Its purpose is best explained by putting the present law and the proposed change in parallel columns.

PRESENT CODE.	PROPOSED AMENDMENT.
SEC. 808. RAPE.—Whoever has carnal knowledge of a female forcibly and against her will, or carnally knows and abuses a female child under sixteen years of age, shall be imprisoned for not less than five nor more than thirty years: *Provided*, That in any case of rape the jury may add to their verdict, if it be guilty, the words "with the death penalty," in which case the punishment shall be death by hanging: *Provided further*, That if the jury fail to agree as to the punishment, the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section.	SEC. 808. RAPE.—Whoever has carnal knowledge of a female forcibly and against her will, or whoever carnally knows and abuses a female child under the age of twelve years shall be deemed guilty of rape, and shall be imprisoned for not less than five nor more than thirty years: *Provided*, That in any case of rape the jury may add to their verdict the words "with the death penalty," in which case the punishment shall be death by hanging: *Provided further*, That if the jury fail to agree as to the punishment, the verdict of guilty shall be received and the punishment shall be imprisonment as provided in this section. SEC. 808a. CARNAL KNOWLEDGE.—Whoever carnally knows and abuses a female child between the ages of twelve and sixteen years of age shall be imprisoned for not less than one nor more than fifteen years.

The section to be amended hereby is to be found on page 213 of the late edition of the code.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 553.

AMENDING SECTION 851 OF CHAPTER XIX, CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21714.]

The Committee on the District of Columbia, to whom was referred H. R. 21714, report the same back to the House with the recommendation that it do pass.

This bill was prepared by and introduced upon request of the United States attorney for the District of Columbia.

By this bill practically a new section of the code is made, to meet offenses not heretofore amply provided for.

The offenses and punishment therefor are fully set out in the bill. Section 851 is found on page 222 of the new edition of the code.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 554.

AMENDMENT TO SECTION 842, CODE OF LAW, DISTRICT OF COLUMBIA.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON, of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21710.]

The Committee on the District of Columbia, to whom was referred H. R. 21710, report the same back to the House with the recommendation that it do pass.

This bill contains two amendments to the District Code.

On page 2, line 8, the word "ten" is to be used in lieu of the word "three" in the code to increase the time of imprisonment for those convicted of fraud in relation to forged instruments, etc.

Same page, line 21, the word "shall" is inserted in order to supply a missing word in the code.

This bill was prepared by the United States attorney for the District of Columbia and was introduced upon his request.

The section to be amended hereby is to be found on pages 219–220 of the new code.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 555.

AMENDMENT TO SECTION 851A, CODE OF LAW, DISTRICT OF COLUMBIA.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21709.]

The Committee on the District of Columbia, to whom was referred H. R. 21709, report the same back to the House with the recommendation that it do pass.

This bill was prepared by and introduced upon the request of the United States attorney for the District of Columbia. The sections of the code effected by this bill are quoted below, viz:

SEC. 834. EMBEZZLEMENT BY AGENT, ATTORNEY, CLERK, OR SERVANT.—If any agent, attorney, clerk, or servant of a private person or copartnership, or any officer, attorney, agent, clerk, or servant of any association or incorporated company shall wrongfully convert to his own use, or fraudulently take, make way with, or secrete, with intent to convert to his own use, anything of value which shall come into his possession or under his care by virtue of his employment or office, whether the thing so converted be the property of his master or employer or that of any other person copartnership, association, or corporation, he shall be deemed guilty of embezzlement and shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than ten years, or both.

SEC. 835. EMBEZZLEMENT OF NOTE NOT DELIVERED.—Every embezzlement of any evidence of debt negotiable by delivery only, actually executed by the master or employer of any such clerk, attorney, agent, officer, or servant, but not delivered or issued as a valid instrument, shall be deemed an offense within the meaning of the last preceding section.

SEC. 836. RECEIVING WITH KNOWLEDGE.—Every person who shall buy or in any way receive anything of value, knowing the same to have been embezzled, taken, or secreted contrary to the provisions of any of the three next preceding sections, shall be punished in the same manner and to the same extent as prescribed in said sections, respectively.

SEC. 837. CARRIERS AND INNKEEPERS.—Any person intrusted with anything of value, to be carried for hire, or being an innkeeper and intrusted by his guest with anything of value for safe-keeping, who fraudulently converts the same to his own use, shall be deemed guilty of embezzlement and punished as provided in section eight hundred and thirty-four.

SEC. 838. WAREHOUSEMAN, AND SO FORTH.—Any warehouseman, factor, storage, forwarding, or commission merchant, or his clerk, agent, or employee, who, with intent to defraud the owner thereof, sells, disposes of, or applies or converts to his own use

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any property intrusted or consigned to him, or the proceeds or profits of any sale of such property, shall be deemed guilty of embezzlement, and shall suffer imprisonment for not more than ten years.

EXECUTIVE OFFICE,
COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 25, 1912.

Hon. BEN JOHNSON,
Chairman Committee on the District of Columbia,
House of Representatives.

DEAR SIR: The Commissioners of the District of Columbia have the honor to recommend favorable congressional action upon H. R. 21709, of the present Congress, entitled "A bill to amend section 851a of Chapter XIX of Subchapter II of the Code of Law for the District of Columbia," which was referred to them at your instance for examination and report.

Very respectfully,

THE BOARD OF COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
By CUNO H. RUDOLPH, *President.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 556.

AMERICAN CLAIMS AGAINST MEXICO.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. GARNER, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. J. Res. 255.]

The Committee on Foreign Affairs, to whom was referred House joint resolution 255, directing the Secretary of State to investigate claims of American citizens growing out of the late insurrection in Mexico, determine the amounts due, if any, and press them for payment, having had the same under consideration, report it back to the House, by unanimous vote, without amendment and recommend that the resolution do pass.

The necessity for the passage of this resolution will appear from a recital of the following facts:

In April, 1911, a battle was fought at Agua Prieta, a town situated in Mexico immediately across the international boundary line from Douglas, a city in the then Territory but now State of Arizona. Engaged in this battle, fighting against each other, were Mexican Government troops and insurrectionists who were seeking to overthrow the Mexican administration. As an incident to the battle many of the shots fired found their way across the international boundary line into Douglas, wounding a number of American citizens, some of them fatally.

Afterwards, in May, 1911, another battle was fought between the Mexican Federal and insurrection forces at Ciudad Juarez, immediately across the international boundary line from El Paso, Tex., and in this engagement shots from the Mexican guns were fired into El Paso, wounding and killing a large number of Americans.

At the scene of both these battles an American military force was present sufficient to have protected these Americans who were injured, but this military force was not utilized. The President contented himself with only a warning to the Mexican Government and to the officers commanding the forces engaged in the fight not to injure Americans within United States territory.

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Following these occurrences the Americans who were thus injured, and the legal representatives of those who were killed, prepared their claims against the Mexican Government for damages and presented them to our Secretary of State, together with their proof, with the request that the Secretary present them to the Mexican Government and press through diplomatic channels for payment. This the Secretary refused to do, and instead advised the claimants that the American Embassy at the City of Mexico would, upon specific request of claimants, file their claims with the Mexican foreign office for presentation to the consultative claims commission of Mexico, but with the distinct understanding that in so presenting the claims to the Mexican foreign office neither the embassy nor the Government of the United States would pass upon the propriety, equity, justice, or legality of such claims, and that these questions would be left for further consideration and final determination in accordance with the rules and principles of international law applicable and controlling, when, if at all, it shall become necessary to consider the question of formally presenting complaints of claimants through diplomatic channels as a diplomatic claim. The Secretary further informed claimants that the American Embassy would do nothing more in relation to their claims than to present them for filing as before stated; that it would be necessary for each claimant, either personally or by attorney, to take all other needful measures in the premises, but that if the parties appearing before the commission should be dissatisfied with the findings of that tribunal, as approved or modified by the Mexican treasury, they might pursue their judicial remedies in the ordinary courts.

To this action of our State Department, relegating them to a Mexican tribunal for relief, claimants objected. They took the position that as they were injured in the United States and not in Mexico, and had never submitted themselves to Mexican jurisdiction nor Mexican laws, there was no authority in international law to require them to go to Mexico, the wrongdoer, for the trial of their cases. They contended that, as in all other cases of personal injury, their rights should be determined and the amount of their damages measured by the law of the place where the injuries were inflicted, which were the laws of the United States; that the laws of Mexico were wholly inapplicable, and that if it were the purpose of Mexico to apply American laws to the claims, Mexican tribunals were not competent to apply them; that it was an act of injustice, if not indeed a complete denial of justice, to require the American claimants to incur the heavy expense, which they were unable to bear, of going to a foreign country to submit their claims to a tribunal whose proceedings are conducted in a foreign language and which administers laws of which they have no knowledge, and which has no power to enforce the production of evidence from the locality where the injuries occurred.

Claimants further contended that the duty rests upon this Government to afford its people protection and justice; that as to them it had not afforded protection, and in consequence they had been injured, and that it should afford them a proper and effectual means of redress, and that the only way this can be done in these cases is for the Government itself to investigate these cases, determine the amounts due, and present and press them for payment as diplomatic claims. Because claimants can not sue the Mexican Government in

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our courts, and for the reasons already pointed out, it is impracticable to produce the evidence or try them before a Mexican tribunal.

The resolution which is the subject of this report seeks to compel the State Department to act in accordance with the views of claimants.

To support the position of the State Department, which we have outlined, the Secretary of State relies upon the following statement setting forth shortly the history of the department's action in the matter of these claims and giving briefly the reasons for the procedure which it has followed:

That from the time the anti-American riots broke out in Mexico City until the close of the recent revolutionary disturbance immediately following, the American ambassador at Mexico City and the American consuls throughout the Republic, acting under standing instructions issued very early in the disturbances, were prompt and effective in their representations to the Mexican Government for the protection of American life and property. Whenever and as often as any particular case was called to the attention of the department, special instructions (by telegraph, if the case was urgent, otherwise by mail) were sent to the appropriate diplomatic or consular officers in Mexico. Moreover, pursuant to general and to specific instructions issued by the department, our diplomatic and consular officers in Mexico constantly reported to this Government the conditions in their various localities, so that, thus fully advised, the department was able to secure protection which otherwise might have been impossible.

That as to the unfortunate occurrences at El Paso, Tex., and Douglas, Ariz., in which American citizens were killed or injured by shots fired from the Mexican side of the border as an incident of the hostile operations being there conducted, this Government made urgent representations not only to the commanders in the field, but to the Mexican Government itself, that steps must be taken to prevent the firing into American territory, and the reports of our officers go to show that both parties seemingly attempted to avoid such firing. The action taken was as urgent as it was deemed proper to make when it was considered that should the United States be contending with a foe, domestic or foreign, that had placed its back against the Mexican border, military necessity would doubtless require that such foe be dislodged irrespective of the incident damage which might result to Mexican citizens on Mexican soil. If such a case arose on this side of the line, it is doubtful if this Government would do more than assert its willingness to answer in damages for the injuries which it might cause. In the present case the Mexican Government has indicated its willingness to live up to the same rule.

To the end of meeting claims against it arising out of the recent revolution, the Mexican Government has established a claims commission which has jurisdiction to examine into claims against the Mexican treasury because of injuries to the private estate of persons or for damages directly growing out of the revolution, for the purpose of reaching the amount of indemnity to which claimants may be entitled. This commission was established by a decree dated June 30, 1911, and was by the decree opened for business on July 1. The decree provided that no claims would be received by the commission after September 30. However, American citizens not having, for various reasons, presented their claims to the tribunal by the last date named, this department arranged with the Mexican Government that claims not already presented to the commission might be presented informally through the foreign office by our ambassador. Two such extensions were secured by the department, as a result of which American claimants, and apparently none others, had until December 31 last to present their claims. In taking advantage of this arrangement and presenting these claims thus informally through the foreign office, the American ambassador, under instructions from the State Department, reserved all rights to make diplomatic representations later in each and every case in which the result reached by the commission was not, in the opinion of this Government, in accordance with the principles of law and equity involved.

All American claimants were referred to this commission, because it seemed under the decree creating it that it had jurisdiction of all claims of every kind and nature, and because of the evident necessity, if justice were to be finally done to all Americans, of treating the entire situation as a unit. There was in international law no ground apparent to the department which would have justified it in discriminating between American claims or putting them in certain classes which should receive different treatment, and there was obviously no reason in abstract justice or in morals which required any such course, certainly not so long as ultimately no citizen would suffer

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by the procedure adopted, and so long as by making such discrimination some Americans would probably suffer. The necessity of treating the situation as a unit is evident when one considers losses suffered in the ordinary track of war, for which under the ordinary rules of international law the Government of Mexico would seem not to be responsible, and yet which were losses as real and severe as those for which compensation might be claimed. The commission being authorized to deal with all claims not only in accordance with the strict law, but with the equities which might be shown, it seemed most desirable that opportunity be given to present the track-of-war claims to the commission without the prejudice which would have resulted from withholding from the commission all claims legally sound. Moreover, no one has lost any rights by presenting their claims to this commission; indeed, all rights have been expressly reserved.

Again, as it is fundamental in international law, in the matter of claims, that before a government becomes liable diplomatically the claimant must, save under certain exceptions not apparent in this situation, have exhausted his local remedies, it is quite clear that by presenting their claims to this commission, American claimants have perfected their rights. Moreover, as the commission was specially constituted for the purpose of hearing and determining revolutionary claims, it seemed manifestly unwise to risk, in case the claims should finally go to international arbitration, a plea by the Mexican Government that the claimants had failed to exhaust their local remedies. It is, moreover, very probable that if this Government had so acted as to permit this plea to be used by the Mexican Government, the very claimants who now desire other procedure would have been among the loudest in their censure of the department for having acted contrary to this most elementary principle.

As the proceedings before the commission did not seem to be moving as rapidly as could be desired, the American ambassador at Mexico City, pursuant to the department's instruction, took up the matter of the commission's early consideration of the El Paso and Douglas claims, and the President of the Mexican Republic has promised that these claims would be immediately referred for investigation and settlement, if possible, with the claimants, to the Mexican consuls at El Paso and Douglas, and that failing a settlement between the consul and the claimants, the cases would receive immediate consideration by the commission with a view to reaching an early adjustment.

The right of the Government of Mexico to establish a tribunal to hear the evidence presented by any and all claimants against the Mexican Government, in order that the Government might adjust such claims, is certainly too clear to call for extended argument. The underlying principle was laid down by Mr. Jefferson, who in instructing, as Secretary of State, our representative at Paris, under date of March 12, 1793, stated:

"We surely can not deny to any nation that right whereon our own Government is founded—that everyone may govern itself according to whatever form it pleases, and change these forms at its own will, and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president, or anything else it may choose. The will of the nation is the only thing essential to be regarded." (1 Moore's Digest, p. 120.)

Later Webster announced the same fundamental principle in an instruction to Mr. Reeves, under date of January 25, 1852. Mr. Webster used the following language:

"From President Washington's time down to the present day it has been a principle, always acknowledged by the United States, that every nation possesses a right to govern itself according to its own will, to change institutions at discretion, and to transact its business through whatever agents it may think proper to employ." (Op. cit., p. 126.)

To these expressions and as complementary to them, there should be added the doctrine announced by Secretary Bayard in a note to the Spanish minister at this capital in which Secretary Bayard, urging the right of this Government to refer persons having claims against it to the tribunals to be constituted by us for that purpose, used the following language:

"It may, however, be rightfully maintained, as has frequently been done by both this Government and that of Great Britain, that when a sovereign rests his administration, so far as concerns claims against himself, primarily on his judiciary, and when such tribunals are open to aliens for redress to them, aliens claiming to be aggrieved should at first resort." (For. Rel., 1887, p. 1022.)

It is, therefore, entirely clear that the Mexican Government was wholly free to adopt such means as it chose for the purpose of passing upon claims of aliens against the Government, providing, of course, the procedure adopted was not unreasonable.

The propriety of the action of the department in referring all claimants in the first instance to this commission, whatever the nature of their injury and their rights

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thereunder, it is sufficiently established by other rules set forth by various Secretaries of State and by the Supreme Court itself.

In 1855 Mr. Marcy, directing our minister to Peru, said:

"The natives of the foreign country seek redress for wrongs through the judicial tribunals or in the form of petitions to the executive or legislative authorities. Foreigners are bound to pursue the same course unless there should be a positive and unequivocal treaty stipulation imparting to them privileges superior to those enjoyed by the natives of the country. It is only when the judicial tribunals are not accessible, or act corruptly, or are used as instruments to oppress our citizens or deprive them of their rights of property, that cases are presented for the interference of this Government in their behalf." (6 Moore's Digest, p. 659.)

In 1874 Secretary Fish, writing to Mr. Lawrence, chairman of the Committee on War Claims, House of Representatives, regarding a bill to provide for the adjudication of the claims of aliens arising out of our Civil War, expressed the same principle as follows:

"In the intercourse of nations it is an admitted principle of comity that where the local courts afford a remedy, and where there is no reason to distrust the firmness and sense of equity of those courts, a claim will not be urged diplomatically until the local remedy shall be exhausted unless good and satisfactory reasons can be shown for not pursuing the remedy to the highest court of appeal." (See H. Rep. No. 134, 43d Cong., 2d sess., p. 5.)

Later, in 1893, Mr. Gresham announced the same principle in the following language:

"There is no principle of international law which makes it the duty of one nation to assume the collection of claims of its citizens against another nation if the citizens themselves have ample means of redress without the intervention of their government. Indeed, Sir Robert Phillimore says, in his Commentaries on International Law, volume 2, second edition, page 12: 'As a general rule, the proposition of Martens seems to be correct, that the foreigner can only claim to be put on the same footing as the native creditor of the State.'" (108 U. S., p. 90.)

The custom of nations in settling war claims has always been in accordance with the principles set forth in the above quotations.

In view of these facts and circumstances the Secretary thinks that congressional activity in this matter would embarrass rather than facilitate the present negotiations for settlement of American claims. A resolution, such as this proposed regarding the El Paso and Douglas claims, would doubtless bring forth other resolutions on behalf of classes of other American claims with the result that the whole situation, which so far has been conducted entirely in accordance with international precedents, would be thrown into confusion.

The Secretary assures the committee that he will continue to do everything in his power to secure for all American citizens the utmost to which their rights entitle them.

To the foregoing contentions of the Secretary of State, Representative Smith of Texas, author of the resolution, has made the following reply:

In considering House joint resolution No. 205, relating to the claims against Mexico of Americans who were injured in our own country, it is irrelevant to discuss whether or not our Government failed to afford those Americans the protection due them or whether or not Americans injured within the confines of Mexico should be required to look to Mexican tribunals for redress.

Both these questions are entirely beside the true issue. Whether our Government should have intervened for the protection of those Americans who were wounded on the American side by bullets fired across the boundary line from the Mexican side can not have the slightest bearing one way or the other on the question of the liability of the Mexican Government for damages to the Americans so injured. Neither has the fact that the Secretary of State claims to have used diligence during the progress of the insurrection to afford protection to Americans who happened to be resident or transient in Mexico anything whatever to do with this question.

I quite agree that under principles of international law Americans who suffered damage to either person or property in Mexico would be required to exhaust their local remedies in the manner provided by Mexico herself before appealing to our Government for assistance.

But my resolution is not in behalf of people injured in Mexico. It is in behalf of people who were injured wholly on American soil, in their own homes, living under American laws, and who had not submitted themselves to Mexican jurisdiction in any way.

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The two classes of claims are upon entirely different footing. When a person goes into a foreign country he becomes subject to the jurisdiction of that country and must prosecute and defend his rights in the courts of that country. Being subject to the laws of the foreign country, his rights are determined by the courts in accordance with the law thereof and not the laws of the country from whence he came.

All this a person is assumed to agree to when he goes into a foreign country, and he assumes all the risks incident thereto. And as long as he receives the same treatment at the hands of such foreign government as is accorded to its own citizens, he will have no grounds for complaint.

But a person injured in his own country is entitled to have his rights measured and determined by the laws and tribunals of his own country, regardless of the question as to who violated his rights. Not having submitted himself voluntarily to the laws or jurisdiction of a foreign country, his own Government has no right to compel him to do so.

In the case in hand the violation of the rights of these American citizens was a violation of American, not Mexican law. And I want to ask by what principle of international law or justice Mexico can claim the right to apply Mexican law to them, or even to administer American law in a Mexican tribunal?

Under the law of nations every organized government owes a duty to foreigners residing or sojourning within its domain. As a general rule it must afford them the same degree of protection and access to its courts as are afforded by it to its own citizens. In return foreigners must submit themselves to its laws and resort to its tribunals for the administration and enforcement of its laws. Certainly it is only fair and just that foreigners claiming rights under its laws should be required to litigate them in its own tribunals.

Quite different is the case we have before us. Mexico owed no duty as a Government to the American people for her soldiers injured on American soil, and they owed Mexico no duty, except the duty to respect the rights of each other. In injuring these Americans, Mexico acted as a naked trespasser, and it outrages every sense of justice to be told that they must take their cases to the tribunals of the trespasser for trial, whether Mexican or American law is to be applied to the case.

When the Secretary of State sent his communication and the brief of his solicitor to the committee in opposition to my resolution, and making the contention that these American claimants should submit their claims to Mexican tribunals, he did not express his views as to what laws should be applied to the case. I now ask him that question. Should Mexican laws be applied? If so, under what principle of international law or abstract justice should the laws of any foreign country be invoked to redress wrongs inflicted under American laws? Should American laws be applied? If so, let him point out just one authority holding that an American citizen should be required to leave his own country and go to the tribunals of a foreign country to have American law applied to a case which arose on American soil.

Until the Secretary of State answers these questions he can not expect an acceptance of his naked statement that "there was in international law no ground apparent to the department which would have justified it in discriminating between American claims or putting them in certain classes which should receive different treatment," and that "there was obviously no reason in abstract justice or in morals which required any such course."

I have examined with very great care the Secretary of State's communication and the brief of his solicitor and all the authorities cited by them, and I fail to find any authority for saying that all claims against Mexico growing out of the late revolution should be treated as a unity—that the claims arising on American soil should receive identically the same treatment as those arising in Mexico. I have also made an examination of many works on international law and I have found no such authority.

The first authority cited by the solicitor is Moore's Digest of International Law, Volume VI, page 656 et seq., which lays down the general rule that a claimant must exhaust his local remedies before invoking diplomatic assistance. To state the rule more elaborately the solicitor quotes from a letter written in 1834 to a claimant by Mr. McLane, Secretary of State, as follows:

"Although a government is bound to protect its citizens, and see that their injuries are redressed where justice is plainly refused them by foreign nation, yet this obligation always presupposes a resort in the first instance to the ordinary means of defense or reparation which are afforded by the laws of the country in which their rights are infringed, to which laws they have voluntarily subjected themselves by entering within the sphere of their operation and by which they must consent to abide."

The case referred to by Mr. McLane was one of tort committed on the claimant by a mob in Cuba, and of course the local remedies afforded by the laws of Cuba should

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have been resorted to first. It is not a case in which the injuries complained of had occurred within our country.

Let us notice the requirements of this rule. What is meant by "local remedies"? It means such remedies as are afforded by the laws of the country in which the rights of the claimants are infringed. In the cases embraced in my resolution it means the remedies provided by American laws, not Mexican, because the injuries occurred in America and not in Mexico.

I have made an exhaustive examination of all the cases cited in Moore's Digest of International Law in support of the rule that claimants must exhaust their local semedies before invoking diplomatic assistance, and I have found that without a ringle exception they are cases in which the claimants were injured in the foreign countries and not at home.

The Secretary of State says that "the right of the Government of Mexico to establish a tribunal to hear the evidence presented by any and all claimants against the Mexican Government, in order that the Government might adjust such claims, is certainly too clear to call for extended argument."

In support of this proposition, which to my mind is quite fallacious when stated so broadly, the Secretary quotes from a letter of Thomas Jefferson, as Secretary of State, to our representative at Paris, under date of March 12, 1793, as follows:

"We surely can not deny to any nation that right whereon our own Government is founded, that every one may govern itself according to whatever form it pleases, and change these forms at its own will, and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president, or anything else it may choose. The will of the nation is the only thing essential to be regarded."

The Secretary of State also quotes from Mr. Webster to the same effect, and as a complement to these authorities the Secretary lays down the doctrine announced by Secretary Bayard on December 3, 1886, as follows:

"It may, however, be rightfully maintained, as has frequently been done by both this Government and that of Great Britain, that when a sovereign rests his administration, so far as concerns claims against himself, primarily on his judiciary, and when such tribunals are open to aliens for redress, to them aliens claiming to be aggrieved should at first resort."

Of course, no one will dispute the proposition made by Jefferson and Webster, viz: That every government has the right to choose its own form of government and to transact its business through whatever organ it may think proper. And no one will deny that as a general rule every government has the right to require that all claims arising under its own laws shall be submitted to its own judiciary.

But I do most emphatically deny that any Government has the right to require that the claims of foreigners, arising under the laws of another country and outside the jurisdiction of its own laws, shall be prosecuted in its own courts.

If, under the authorities just referred to, Mexico can require Americans unlawfully injured by Mexican troops within American jurisdiction to seek redress in Mexican tribunals, then Mexico can require any controversy affecting her interest to be tried in her own tribunals, however much such controversy may affect the interests of foreign people or foreign Governments. The fallacy of such a proposition readily appears from a mere statement of it.

The Secretary's letter cites a number of cases in support of his position other than those already referred to, but none of them are in point. The Marcy letter was with regard to an American claim arising in Peru. The Fish letter related to claims of aliens against the United States arising out of the Civil War within our own jurisdiction. The other two cases are equally as inapplicable. Not one of them involved the question under discussion, viz, whether or not an American unlawfully injured in his own country by a foreign power can be required to resort to the courts of the foreign power for redress.

As I have already stated, I have been unable to find any case in international law holding the affirmative upon that proposition, and I do not believe any such case can be found.

The question seems to have been raised but once with our State Department, and it was then decided positively and emphatically against the present contention of our Secretary of State. I refer to the case of the American schooner *Daylight*, of Bath, Me., which vessel, while at anchor outside of the bar near the harbor of Tampico, being then on her voyage from Key West, Fla., with a cargo of lumber for Tampico, was at night run into by the Mexican gunboat *Independencia*, the vessel and cargo becoming a total loss. The claim for damages was made to the Minister of Foreign Affairs of Mexico, who contended that the claimant should bring suit in the Mexican courts. To this contention Secretary of State Frelinghuysen vigorously dissented,

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because the injury was done beyond the jurisdiction of Mexican dominion. In discussing the question Mr. Frelinghuysen, in his instructions to the American ambassador to Mexico, wrote as follows:

"Upon a careful examination of these several propositions of the distinguished secretary for foreign relations of Mexico, I find myself wholly unable to agree with him in the conclusion that the doctrine embraced in them can, with any legal propriety, be considered applicable to the case of the *Daylight*. In his note to you of the same date regarding the case of the *Sidbury*, a copy of which accompanies your 776, referring to this same jurisdictional contention, Mr. Fernandez says: 'This opinion does not merely rest upon the principle that the courts are called upon to redress injuries which are suffered by the inhabitants of the country or those who are transiently therein, for the purpose for which they are established is to administer justice.' Giving to this proposition the interpretation which it has received from all writers on public law, and hitherto accepted by all civilized governments—that is, that the municipal civil laws can only be held applicable to and operative on the rights, property, and persons of the citizens of the country and foreigners who may be either permanently or temporarily residing in the country—I find no difficulty in acceding to it. This, however, is all that can be claimed for it—all, as it is believed, that is claimed for it by the governments of Christian nations—and all that is allowed to it by the uniform declaration of writers on public law. 'Considered,' says Halleck, 'in an international point of view, either the thing or the person made the subject of the jurisdiction must be within the territory, for no sovereignty can extend its process beyond its own territorial limits so as to subject either persons or property to its judicial decisions, and every exertion of authority of its sort beyond its limits is a mere nullity and incapable of binding such persons or property in any other tribunals.'

"The same doctrine is found stated in different forms of expression in Phillimore, in Wheaton, in Westlake, and in Woolsey. I am not aware that it has ever been questioned.

"The owners of the *Daylight* were never residents of Mexico, either permanent or temporary. They are not known to have ever been in the country. The master of the vessel was not a resident of Mexico, either permanent or temporary, and was never in the country beyond the port at which his vessel might touch. At the time of the occurrence which gave rise to the claim the vessel could scarcely be said, with strict propriety, to have been in Mexican waters. She was anchored outside the bar, near the Harbor of Tampico, in an exceptionally rough sea, at the close of a severe storm, which rendered it unsafe for her to attempt to cross the bar or enter the harbor. To insist that those claimants shall go from Maine to Tampico to seek redress in the Mexican tribunals for a grievous wrong suffered at the hands of a high officer of the navy of that Republic, and in such proceedings to be met by the evidence which the commander of the *Independencia* would readily be able to elicit from the ship's crew, would, in the estimation of this Government, be a practical denial of justice. The Mexican Government is conceived to be justly responsible to this for the act of that officer, and consequently the views put forth by Mr. Fernandez in behalf of his government can not be accepted or acceded to by this.

"Guided by the suggestions of my former instructions in regard to the matter, you will again, in the light of the observations made in this, bring the subject to the attention of the minister for foreign affairs, and you will say at the same time that the President hopes and expects that so just a claim as this is deemed to be will receive early consideration, followed by prompt and speedy adjustment at the hands of the Government of Mexico."

The doctrine announced by Mr. Frelinghuysen is so elemental that I venture the belief that it was never called in question by any Government before our present Secretary of State began to deal with these Mexican claims. Mexico did not call it in question in the *Daylight* case, but based her contention that the case should be tried in her courts upon the ground that the injury to the schooner occurred in Mexican waters and within the dominion of Mexican laws. America refused to require the claimants to go into the Mexican courts because of the belief that the injury occurred upon the high seas, outside the dominion of Mexico.

But aside from the legal question involved, in regard to which I believe I have clearly shown the Secretary has taken an erroneous view, he makes an argument in justification of his action in treating alike all claims growing out of the Mexican insurrection which is also unsound. The Secretary says:

"The necessity of treating the situation as a unit is evident when one considers losses suffered in the ordinary track of war, for which, under the ordinary rules of international law the Government of Mexico would seem not to be responsible, and yet which were losses as real and severe as those for which compensation might be claimed. The commission being authorized to deal with all claims not only in accord-

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ance with the strict law, but with the equities which might be shown, it seemed most desirable that opportunity be given to present the track of war claims to the commission without the prejudice which would have resulted from withholding from the commission all claims legally sound."

In the first place I take the position that no claim arising within American dominion can be classed as a track-of-war claim. As I said before, these people who were injured and the Mexican Government did not owe each other any duty except the duty of respecting each other's rights. Though prosecuting a war, both the Mexican federal and insurgent troops were bound to respect the rights and safety of Americans on American soil, and to the extent they did not do so were unlawful invaders and naked trespassers. No authority can be found holding that the necessities of war can justify either the invasion of the dominion of a neutral power or the wronging and killing of the citizens of a neutral power. If the rights of residents must give way to the necessities of a war being carried on by a government under which they live, that is another matter. And I say that the Secretary of State fails utterly to state any good reason why the well-founded claims of resident Americans should be tied up with claims of residents of Mexico, which may not be well founded. Why should resident Americans hazard their claims in Mexican tribunals just because such course might aid in collecting other claims with which they absolutely have no connection?

Finally, the Secretary says that "where an armed insurrection has gone beyond control of the parent government, such government is not, as a general rule, responsible for damages done to foreigners by the insurgents, and that a government is not responsible for the acts of its own soldiers resulting in such injuries as are due to the misfortunes of war, either internal strife or conflict between nations; nor responsible for the acts of soldiers committed in their private capacity—acts of pillage—without the order or presence of a commanding officer; and that the department felt that these principles might be found to operate unfavorably toward some American claims if they should be presented diplomatically or be submitted to an international claims commission."

I want to say the Secretary need not have any apprehension that either of these principles could be invoked against any of the claims we are dealing with. It matters not whether the injuries were inflicted by the Federal or insurgent troops. If by the former, of course the Mexican Government would be liable, and if by the latter the Government would be liable because the insurrection was successful, and under well-established rules of international law the Government in the hands of the insurrectionists would be liable. (Moore's Digest of International Law, Vol. VI, p. 991.)

As I have already shown, the "misfortunes-of-war" doctrine can not properly apply to nonresident foreign neutrals. And certainly it can not be claimed that in injuring our people the Mexican troops were acting in their private capacity, without the order or presence of a commanding officer. They were in the immediate command of their officers, and engaged in a struggle for the control of the Mexican Government. At El Paso the insurgent forces were under the personal command of Madero, who is now the President of Mexico.

With regard to the suggestion that the Mexican Government has changed its position so far as to now say it would authorize the Mexican consuls at El Paso and Douglas to make investigations of all the claims of American citizens at those places and endeavor to make direct settlement with claimants, I desire to say that such suggestion is entirely unsatisfactory to claimants. It will be noted that as a part of the proposal it is stated that in the event of failure to reach settlement the cases would be remanded to the Mexican consultative claims commission. The claimants believe this change in attitude on the part of the Mexican Government is only a ruse in line with its past conduct to bring about delay and the ultimate defeat of the claims.

Moreover, in this change of attitude the Mexican Government still adheres to its claim of right to try these cases before its own tribunals—a proposition so contrary to international law and all sense of justice that claimants can not assent to it.

I want to remind the committee that there is involved in this matter not alone the question of making compensation to a few American claimants. It presents for solution a great question of international law which concerns every American citizen, and unless settled right, may in the future subject many American citizens to outrages and injuries for which they would be unable to obtain any redress.

I also cite the following authorities in support of the rights of aliens in the United States:

"Aliens coming within our territory are entitled to the same protection in their personal rights as our own citizens and no more." (Moore's Digest of International Law, Vol. IV, p. 2.)

"There is no principle of the law of nations more firmly established than that which entitles the property of strangers within the jurisdiction of a country in friendship

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with their own to the protection of its sovereign by all the efforts in his power. This common rule of intercourse between all civilized nations has between the United States and Spain the further and solemn sanction of all express stipulation by treaty. In violation both of the common usage of nations and of the express promise of Spain in the treaty, nearly two hundred vessels and their cargoes, belonging to citizens of the United States, were seized, many of them within the territorial limits of Spain and under the cannon of her fortresses, by French cruisers, and all of them were condemned within Spanish jurisdiction. Spain was required to pay indemnity." (Moore's Digest of International Law, Vol. IV, p. 5.)

"The policy of the United States in all cases of complaints made by foreigners is to extend to them the same means of redress as is enjoyed by our own citizens." (Moore's Digest of International Law, Vol. IV, p. 7.)

"In the courts of the United States alien friends are entitled to claim the same protection of their rights as citizens." (Moore's Digest of International Law, Vol. IV, p. 7.)

"Aliens domiciled in the United States owe to the Government a local and temporary allegiance, which continues during the period of their residence, and for the violation of which they may become liable to prosecution for treason, just as a citizen." (Moore's Digest of International Law, Vol. IV, p. 10.)

"The authority which every sovereign has over the conduct of aliens within his territorial jurisdiction makes him responsible to others for their conduct as much and for the same reason as he is responsible for the conduct of permanent citizens or subjects." (Moore's Digest of International Law, Vol. IV, p. 11.)

It would seem to me that according to the authority I have cited with reference to the seizure of American ships by France in Spanish waters, the United States would be liable for damages for injury to aliens within our dominion by Mexico, and therefore it would follow that the United States would be entitled, in turn, to recover the damages from Mexico.

See Koszta case, Moore's Digest of International Law, Volume III, page 820, for elaborate discussion of the rights and duties of the United States with regard to aliens domiciled within its territory.

Also, see letter of B. Bryan to Mr. Huntington Wilson, Acting Secretary of State, on same subject, which follows:

SEPTEMBER 11, 1911.

Mr. HUNTINGTON WILSON,
Acting Secretary of State, Washington, D. C.

DEAR SIR: I am in receipt of your letter of date August 26, 1911, to Hon. W. R. Smith, Member of Congress from Texas, in regard to claims against Mexico of Richard Brown, Virginia Moorhead, and Francisco Portillo, which letter has been transmitted to me by Mr. Smith. In said letter you used the following language: "The Department of State would not be warranted in making any representations in regard to the claim of Francisco Portillo, as it appears from his memorial that he is not an American citizen." I respectfully differ from you in the conclusion that the memorial of Francisco Portillo does not show that he is an American citizen and entitled to protection as such. My authority, I refer you to Moore on International Arbitrations, Digest, volume 3, and the case of Jarr and Hearst, pages 2707, 2708, 2710, 2711, 2712, 2713. In these cases continuous domicile in the United States along with the declaration of intention to become a citizen permitted the claimants to appear before the commissioner and claim damages. After full discussion, Mr. Palacio, the Mexican commissioner, who at first denied the right, ultimately conceded that such persons were citizens of the United States. Also, I cite you, same authority, Moore's Digest International Arbitration, volume 3, page 2722, to the argument of Mr. Hale, counsel for the United States, in which he goes exhaustively into the question of domicile and intention to become a citizen and the protection flowing therefrom. In same case I cite you also to the argument of Judge E. R. Hoar, in which argument Judge Hoar exhaustively discusses the rights of one permanently domiciled in the country, as is shown to be the case in the case of Francisco Portillo.

Also, I cite you to the distinction between national character of property and the nationality of persons, to wit, act of Congress, 1868; and Phillimore, International Law, part 5, cap. 1.

In the above cases the commission between Mexico and the United States allowed the parties to appear as complainants for damage and allowed damages.

I respectfully ask what is the difference between the case made out in Francisco Portillo's memorial and the parties above referred to? Portillo's memorial shows that he came to reside in the city of El Paso, State of Texas, United States of America, in the year 1893, and that he has continuously since that date resided in the city of El Paso State of Texas, United States of America; second, that he made his declaration of

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becoming a citizen in the year 1896; third, that acting upon said declaration he has been exercising his right as a voter in the city of El Paso, State of Texas, United States of America, in all elections, local, district, State and National; fourth, that he has acquired property in the city of El Paso, Tex., and is a taxpayer and as such is a merchant engaged in business; fifth, that his children have been educated in the public schools of El Paso, Tex.; sixth, he is a man of family and has continuously resided in El Paso, Tex., never returning to Mexico; seventh, that he has taken all necessary steps to take out his final paper of citizenship.

As said by Mr. Ashton in his argument, Moore's Digest, volume 3, page 2703 (and his argument was sustained by the commission and the claimant allowed damages), that the naturalization of an alien relates back in the first step and constitutes him a citizen from the date of declaration of intention; "that persons who have duly declared their intention to become citizens of and bona fide domicile of the United States are subject to the protection of the United States against injuries by the territory of Mexico within and without the territory of the United States."

I repeat that this theory of Mr. Ashton was adopted by the commission on Mexican claims. It has been adopted as I understand from the books on international law, Moore's Digest, in the matter of adjustment of claims between Great Britain and the United States.

Also, I respectfully call your attention to the laws of Mexico on the subject of expatriation of Mexican citizens, to wit: In substance, that where a Mexican shall remove from Mexico to the United States or other foreign country and shall not make his declaration of remaining a citizen of Mexico within three years after his "domicile in said foreign country, that said Mexican citizen shall be considered a citizen of said country where he is domiciled." Francisco Portillo, memorialist, shows that he has been continuously a citizen of El Paso, Tex., United States of America.

I respectfully submit, in view of the facts stated in the memorial of Francisco Portillo and of the foregoing authorities quoted, that the memorial of said Portillo should be by the Department of State duly received and presented to the Mexican Government.

Yours, truly, B. BRYAN.

The foregoing letter of B. Bryan and the authorities cited by Mr. Smith upon the rights of aliens domiciled in a foreign country are for the purpose of establishing the right of the United States to demand compensation for aliens domiciled in the United States and who were injured within the United States by Mexican troops firing across the international boundary line.

Answering the foregoing argument of Representative Smith, it is contended in behalf of the State Department—

That there would appear to be few, if any, of the essential points of this matter which have not already been covered by the department. However, for the purpose of recalling distinctly the precise circumstances of this case, it may be well to recapitulate them, as follows:

In two contests between the forces of the established Government of Mexico and the insurrectionists at and around points lying on the Mexican side of our southern border, shots were fired into American territory with a result that a number of persons were injured and some killed, most of whom were American citizens. It will be at once perceived that this action by the Mexican forces constituted a violation of our territory, as well as an injury to our citizens. While this department has not yet reached a definite conclusion regarding the first element named—that is, the violation of territory—it is probable that inasmuch as there is the strongest reason to believe that no affront to this Government or its people was intended by the action of the Mexican forces, no action will be taken with reference to this matter, since, if the situation were reversed, it is probable that this Government might consider itself under the necessity of doing just as the Mexican Government did, even though such action might result in injury on the Mexican side of the border.

With reference to the injury inflicted upon persons within our own territory the department has called these claims to the attention of the Mexican Government and has insisted that they should be settled. The Mexican Government, having established an administrative body known as the Consultative Claims Commission, for the examination of all claims against the Mexican Government arising out of the revolution, the claimants were referred to this commission. Since this reference the department has again taken the matter up with the Mexican Government and has secured from that Government the promise that it will attempt at an early date to reach a

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direct settlement with the claimants through the Mexican consuls located at El Paso, Tex., and Douglas, Ariz. While it would appear that as yet the consuls have not settled these claims, the conditions existing in Mexico are such as entirely to account for this delay, so that it need not be charged to a mere disposition to put off settlement. The department has received every assurance and has the strongest reason to believe that the Mexican Government will settle the claims as soon as practicable.

In presenting the claims to the Mexican Government, this Government has in each case reserved the right to take them up diplomatically should the offer of settlement made by the Mexican Government appear to this Government inadequate. This course has appeared to it the due and proper one considering all the principles involved, and in following this procedure the department has extended only such courtesies and has recognized only such rights as in a reciprocal case it would expect and demand upon its own part. The course thus far pursued has followed the usual amenities and courtesies observed between sovereign powers. The course thus far followed has not only protected the ultimate rights of the injured persons, but that it has perfected their rights by giving to the Government of Mexico every opportunity itself to adjust these claims. This is a matter of most vital importance if Mexico should fail to make or offer such a settlement of the cases as would accord with this Government's view of the equities involved, and we should later be forced to go to arbitration.

Mr. Smith appears to complain of this course and to desire that this Government, at its own expense, investigate these cases, prepare them, and in the first instance present them diplomatically and formally with a demand for payment. The course to be followed after the making of this demand in case Mexico did not, as it probably would not, at once accede to the same, Mr. Smith does not appear to outline. It is probable, however, that he would grant to Mexico the right to make an investigation and a counter offer should that Government not consider the American demand as just and equitable. It will be observed that this would merely bring the negotiations to the same point in which they will be when Mexico has made an offer of settlement, as a result of its initial investigations, and this Government has passed upon the adequacy of such offer. Waiving for the present all legal considerations in the matter of preference between the course followed by the department and the course which Mr. Smith desires, it is quite clear that, as a matter of policy and consideration, the course adopted by this department is calculated to arouse less hostility toward these claims, and therefore probably secure for them a more generous treatment than would result from the unusual procedure advocated by Mr. Smith.

With reference to the contentions of Mr. Smith as to the legal principles involved in this case, it should be observed that even assuming the rules for which he contends are well founded, it is quite clear that the department has as yet taken no action which sacrifices American citizens or their rights or which surrenders on the part of the Government itself any right or principle. This department being charged with the conduct of our foreign affairs, including the protection of American citizens with reference to injuries inflicted upon them by other Governments, is, quite as zealous as any individual could be in exercising all and every care that our rights are fully and amply recognized and protected, and this department has to consider, in the exercise of these functions of protection, not only the injuries inflicted upon any particular individual or set of individuals, but upon American citizens generally, and the department would be open to the gravest censure did it sacrifice the interests of the many for the benefit of any given few. However, the discussion between this Government and Mexico regarding these claims has not yet reached the stage where it would appear the legal questions raised by Mr. Smith have become involved. The discussion will have reached that stage when the Government of Mexico has investigated, not judicially, but administratively as it is now doing, and has made an offer; when this Government has considered and declined (if this shall be the course followed) the offer made by Mexico; and when Mexico has then attempted (if it shall so do) to refer these claimants to the Mexican courts. Then the question as to what law shall control and in what forum the extent of liability shall be determined will arise. But at the present time these questions are not involved, since the Mexican Government is now making, as it has a right to do, an administrative investigation into the facts and circumstances of the cases with a view to making a settlement directly with the claimants. It is difficult to see how Mexico could do more or upon what grounds we could ask more than this.

In this connection Mr. Smith, in the brief which he filed before your committee (a copy of which he was good enough to leave informally with the solicitor for this department), has placed great and indeed seemingly sole reliance for his position upon the case of the *Daylight* against Mexico, and particularly upon an instruction sent by Mr. Frelinghuysen, Secretary of State for President Arthur, to the American minister at Mexico City under date of May 17, 1884. (Foreign Relations, 1884,

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p. 358.) It may be of interest to you to observe that in that case, notwithstanding Mr. Frelinghuysen's statement arguendo in the instruction above cited, the Mexican Government persisted in its contention and referred the matter for investigation to the Mexican department of war and marine, which reported adversely upon the case, and Mexico declined to pay an indemnity. The position of the Mexican Government seems to have been accepted by Mr. Bayard, Secretary of State for President Cleveland, and apparently nothing ever came of the matter.

Without wishing to be regarded as expressing or as indicating at this time a definite opinion upon the arguments advanced by Mr. Smith on this matter—concerning as they do questions which in the judgment of the department are not now before the department—it may be permitted, in connection with the reliance which he places upon the arguments of Mr. Frelinghuysen for the department, to call to your attention the statement by Mr. Moore in his preface to his International Law Digest that in considering questions of international import "two points of capital importance" must ever be borne in mind. He says:

"One is that mere extracts from state papers or judicial decisions can not be safely relied on as guides to the law. They may indeed be positively misleading. Especially is this true of state papers, in which arguments are often contentiously put forth which by no means represent the eventual view of the Government in whose behalf they were employed. Instead, therefore, of merely quoting extracts from particular documents, it has been my aim to give the history of the cases in which they were issued, and, by showing what was finally done, to disclose the opinion that in the end prevailed."

In this connection the department may refer to the notation made by Mr. Moore regarding this case in volume 6 (p. 679) of his digest, in which he states, after quoting the very language upon which Mr. Smith relies, that "the Mexican Government adhered to its position."

The department wishes, however, to assure you that in thus putting this matter before you, it has no other thought than to indicate to you that there appears to be no present necessity for any such action as is proposed. The department desires also that you should be firmly convinced that this department has done and will continue to do everything in its power to protect American citizens and to secure redress for those who suffer injuries, including the very unfortunate sufferers at El Paso and Douglas.

As a matter of fact it appears that the only practical result which would follow the enactment of the joint resolution proposed would be that this Government would be charged with the responsibility and the expense of the initial preparation of the claims of the injured persons at El Paso, Tex., and Douglas, Ariz., instead of having these persons prepare their own claims and meet the expense thereof as is the uniform and invariable rule, so far as the department is advised, in such cases. No reason is perceived why these claims should not in this particular respect take the course usual in such cases.

While the following considerations are not immediately before the department for its comment at this time, it calls them to your attention in the thought that perhaps in view of them and entirely aside from the discussion which has preceded you may think it unwise to attempt the passage of the present resolution.

In the first place, the resolution purports to direct the Secretary of State in the performance of a purely executive function, and in the exercise of a purely executive discretion, a course which in the past has not been found to affect the obligations of the Executive in the premises, as was seen in the case of the Venezuela Steam Transportation Co.

In the next place, the resolution purports to give to a commission certain judicial powers in the matter of compelling the attendance of witnesses, etc. In view of decisions of the Supreme Court on this point you will doubtless consider it a matter of very grave doubt as to whether or not the powers which the resolution would seek to confer would actually be enjoyed by the commission contemplated.

Finally, while the Secretary is thus "authorized and directed" to make certain investigations, the resolution carries no appropriation to meet the expenses of such investigation. In view of the circumstances of this case it is my judgment that there is no fund at its disposition which the department would regard as appropriately expendable for this purpose.

The department ventures to suggest that as the department is already doing in this matter all that it properly may as between this Government and Mexico, the continued exercise by those who are suggesting this legislation of the patience which they have hitherto shown will not only result in no prejudice to the interests which they represent, but will really facilitate the department's disposition of the cases.

The committee, after very careful consideration, is of the opinion that there is no principle of international law requiring, and that it

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would be an act of injustice to require, these claimants who were thus injured through no fault of their own, within their own country, within the dominion of their own laws, to go to a foreign country for the trial of their cases before a foreign tribunal. It is the opinion of the committee that the rule which would require foreigners injured in Mexico to exhaust their local remedies—that is, to first submit their claims to such tribunals as may be provided by the Mexican Government—is wholly inapplicable to these claimants. In the former cases the rights of the claimants and the measure of their damages would have to be determined by Mexican laws within the dominion of which the injuries occurred. In the latter cases American laws should be applied. It is essential that Mexican laws should be applied by Mexican tribunals, and it is equally as essential that American laws should be applied by American tribunals. Mexican tribunals are not supposed to be competent to construe and administer American laws any more than American tribunals are to construe and administer Mexican laws.

Moreover, it is always reasonable to assume that in cases of tort the evidence necessary to a full development of the case and to a complete administration of justice must be produced from the place of the tort. Therefore, in case of tort committed in Mexico the tribunals in that country could enforce the attendance of witnesses and the production of evidence; but in cases where the torts are committed in the United States the Mexican tribunals can not enforce the production of evidence.

It seems to be the contention of the State Department that it is not insisting upon the trial of these cases in Mexico, that it is only suggesting a kind of negotiation as a matter of courtesy to Mexico, out of which it hopes a satisfactory settlement may be reached. In reply to this it may be said that there can be no intelligent negotiation in regard to these claims without some legal standard to apply to them. If the claims had arisen in Mexico, the Mexican Government could apply the Mexican legal standards, but having arisen in the United States the standard should be the laws of this country, and it can not be applied except by some agency of this Government.

Moreover, it is the opinion of the committee that one of the highest duties of a government to its citizens, in cases where they suffer wrongs, is to afford them a means of redress by which they may obtain justice. This our Government fails to do when it sends its citizens abroad to negotiate for justice with the agents of a foreign Government. Therefore we believe it to be the duty of our Government to provide some agency to make a full investigation of these claims, determine the amounts due, and present and press them for payment as diplomatic claims. This should be done as the initial step, and this is the purpose of this resolution.

Since the introduction of this resolution in the House the Mexican Government has advised our State Department that it has referred the matter of the adjustment of these claims to the Mexican consuls at El Paso and at Nogales, and within the last few days that it has appointed commissioners at El Paso to attend to these claims. Further than this nothing has been done although nearly a year has elapsed since these claims arose. In the opinion of the committee none of these proposed methods of dealing with these claimants meets the just demands of the claimants that our Government shall

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determine the claims and assume the burden of presenting them to Mexico through diplomatic channels for payment, and that they be not required to submit them to Mexico for adjudication.

Our State Department suggests that—

> The resolution purports to direct the Secretary of State in the performance of a purely executive function and in the exercise of a purely executive discretion—a course which in the past has not been found to affect the obligations of the executive in the premises, as was seen in the case of the Venezuela Steam Transportation Co.

The case referred to was a case where the claimant, the Venezuela Steam Transportation Co., was denied damages by Venezuela for injuries occurring in that country because it had chosen to present its claim through diplomatic channels instead of to "the high federal court" as required by the law of Venezuela. Our State Department very properly took the position it would not be bound by any such law. But we take it that while an act of the Venezuela Congress "would not affect the obligations" of the Secretary of State, an act of the Congress of the United States may do so, as the State Department was created and its duties defined by the Congress of the United States.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 557.

BRIDGE OVER CHESAPEAKE & OHIO CANAL.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 8615.]

The Committee on the District of Columbia, to whom was referred H. R. 8615, report the same back to the House with the recommendation that it do pass with the following amendments:

Page 1, line 8, strike out the word "alleys"; also the comma following the word.

Page 1, line 9, insert between the words "Company" and "as" the following words: ", its assigns or successors."

Page 1, line 12, insert between the words "erect" and "such" the words "and maintain."

Page 2, strike out the word "and" at the end of line 1; also strike out all of line 2, except the word "and" at the end of line 2.

Page 2, line 3, insert between the words "structures" and "now" the following: "of the said company."

Page 2, strike out the word "and" at the beginning of line 4, and insert in lieu thereof the word "which."

Page 2, strike out the last syllable (ing) of the word "carrying"; also strike out in said line the word "alley"; also the comma following same.

Page 2, line 6, strike out the comma after the word "company," and insert a period instead; also strike out the words "that" and "hereafter." Begin the next succeeding word, which is "the," with a capital letter.

Page 2, line 7, after the word "action" insert the word "hereafter."

Same page, line 8, strike out the words "or to be bought."

After line 9 add:

The Commissioners of the District of Columbia may enforce compliance with the terms of this act in any case by mandamus or other equitable remedy in any court of competent jurisdiction; and it shall be the duty of the corporation counsel, or any of his designated assistants, to represent the said commissioners in any such proceeding.

All acts or parts of acts in conflict herewith are hereby repealed.

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ENGINEER COMMISSIONER OF THE DISTRICT OF COLUMBIA,
Washington, April 6, 1912.

Hon. C. O. LOBECK,
House of Representatives, United States Capitol, Washington, D. C.

DEAR MR. LOBECK: In accordance with your request, I have the honor to submit the following information regarding House bill 8615, to require the Chesapeake & Ohio Canal Co. to build and maintain bridges over its canal within the limits of the District of Columbia.

The canal enters the District of Columbia at the western boundary of the District and extends along the water front to and into that portion of the city of Washington formerly known as Georgetown and has its outlet in Rock Creek.

The canal is bridged at the following points:

Twenty-ninth Street: Repairs are required on this bridge, such as painting and ironwork, and the bridge seat is in bad shape on account of stone falling out; the stone supports for the east girder are in rather dangerous condition.

Thirtieth Street: This is a light wooden bridge, and while it is in good condition it is too light for heavy traffic and should be replaced by a steel or concrete structure.

Jefferson Street: This is a wooden bridge, which should be widened at some time in the future, but is now in good condition. Widening is not necessary at this time, on account of light traffic.

Thirty-first Street: The masonry of this bridge is in good condition, but the steel work needs painting.

Thirty-second Street, or Wisconsin Avenue: This is a masonry arch bridge, built in 1850, but the bridge is now in good condition.

Potomac Street: This is a footbridge of iron set on brick parapet walls; the wall on the north side requires patching.

Thirty-third Street: This is an iron footbridge with concrete abutment and is in good condition.

Thirty-fourth Street: This is an iron footbridge in good condition.

The bill authorizes the commissioners, in their judgment, to require the construction of bridges, viaducts, culverts, or other structures over or under the canal on the line of any street, avenue, alley, or road whenever in their judgment such structures are necessary. No other bridges other than those now existing are necessary at this time, but may be required in the future when justified by traffic conditions. At present there are some public highways, including alleys, which abut on the canal, but which are not carried across. It may be necessary to carry them across at some time.

Repairs to existing bridges are necessary, however, as indicated, in order to provide safe means of travel to the public.

Three suits have been instituted against the District for injuries sustained by persons due to the defective condition of some of these bridges.

One of these, where the damages claimed were $5,000, was settled by the District for $350, and it is intended to look to the canal company for reimbursement. Two other suits are now pending, in which the canal company was made codefendant with the District.

In order to insure that the canal company will carry out the provisions of the law if passed, I would suggest that there be added to the bill a new section, to read as follows:

"The commissioners may enforce compliance with the terms of this act in any case by mandamus or other equitable remedy in any court of competent jurisdiction, and it shall be the duty of the corporation counsel or his assistants to represent the commissioners in every such proceeding."

Very truly yours,
W. V. JUDSON,
Lieutenant Colonel, Corps of Engineers, United States Army,
Engineer Commissioner, District of Columbia.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 558.

LICENSES OF DRIVERS OF PASSENGER VEHICLES FOR HIRE.

APRIL 15, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 22010.]

The Committee on the District of Columbia, to whom was referred H. R. 22010, report the same back to the House with the recommendation that it do pass with amendments.

Page 1, line 11, after "a" and "railway," insert the word "street"; in same line strike out "or traction"; in same line, after the word "company," insert a comma.

Page 2, line 24, after the word "by," insert "street"; same line strike out "or traction."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 559.

IMMIGRATION OF ALIENS INTO THE UNITED STATES.

APRIL 16, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. BURNETT, from the Committee on Immigration and Naturalization, submitted the following

REPORT.

[To accompany H. R. 22527.]

The Committee on Immigration and Naturalization, to which was referred the bill (H. R. 22527) to further restrict the admission of aliens into the United States, reports the same without amendment, in lieu of the Gardner bill (H. R. 1343) and the Hayes bill (H. R. 4673) on the same subject, and recommends that it be passed.

The text of the bill as reported is as follows:

[H. R. 22527, Sixty-second Congress, second session.]

A BILL To further restrict the admission of aliens into the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after four months from the the approval of this act in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over sixteen years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: *Provided* That any admissible alien or any alien heretofore or hereafter legally admitted to any citizen of the United States may bring in or send for his father or grandfather over fifty-five years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

SEC. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than thirty nor more than forty words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

SEC. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious prosecution; (b) all aliens in transit through the United States; (c) all aliens who have

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been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section nineteen of "An act to regulate the immigration of aliens into the United States," approved February twentieth, nineteen hundred and seven.

It will be seen that the main purpose of the bill is to exclude from the United States alien immigrants over 16 years of age who are unable to read their own language or dialect. In order that there might be no doubt about the Hebrew and Yiddish being considered as either a language or dialect, they are expressly embraced in the bill.

From the requirement of the illiteracy test in the bill, there are several exceptions which the committee thought wise to make. We believe that those who are fleeing from religious persecution should find a city of refuge on our shores. Hence the provision excepting immigrants of that class from the test where they are otherwise admissible.

Out of regard for marital and other close family ties, and the duties and obligations arising therefrom, as well as high moral considerations, the committee thought proper to make the other exceptions embraced in the bill.

A bill in its main features similar to this was considered by the House on February 20, 1907. The House felt that before action of that nature should be taken, there ought to be careful investigation of the question both in this country and in Europe. An amendment was offered by those opposed to the illiteracy test, providing for a commission for that purpose, and it was adopted.

The commission, after nearly four years of investigation and study of the question both in this country and in Europe, made its report to Congress more than a year ago. There were nine members of that commission, and they were unanimous in the following statement:

The commission as a whole recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restrictions, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission.

Eight out of the nine, after citing various methods of restriction, concurred in the following report:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

It is certainly interesting, and we believe important, to know some of the reasons which led the commission up to these conclusions, and we will make a few extracts from the "Brief statement of conclusions and recommendations of the commission." On page 25 of this statement they say:

The proportion of the more serious crimes of homicide, blackmail, and robbery, as well as the least serious offenses, is greater among the foreign-born. The disproportion in this regard is due principally to the prevalence of homicides and other crimes of personal violence among Italians and to the violation of city ordinances previously mentioned.

On pages 29 and 30 they say:

It is certain that southern and eastern European immigrants have almost completely monopolized unskilled labor activities in many of the more important industries. This phase of the industrial situation was made the most important and exhaustive feature of the commission's investigation, and the results show that

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while the competition of these immigrants has had little, if any, effect on the highly skilled trades, nevertheless, through lack of industrial progress and by reason of large and constant reenforcement from abroad, it has kept conditions in the semi-skilled and unskilled occupations from advancing.

Several elements peculiar to the new immigrants contributed to this result. They came from countries where low economic conditions prevailed and where conditions of labor were bad. They were content to accept wages and conditions which the native American and immigrants of the older class had come to regard as unsatisfactory. They were not, as a rule, engaged at lower wages than had been paid to the older workmen for the same class of labor, but their presence in constantly increasing numbers prevented progress among the older wage-earning class, and as a result that class of employees was gradually replaced. An instance of this displacement is shown in the experience in the bituminous coal mines of western Pennsylvania. This section of the bituminous field was the one first entered by the new immigrants, and the displacement of the old workers was soon under way. Some of them entered other occupations and many of them migrated to the coal fields of the Middle West. Later these fields were also invaded by the new immigrants, and large numbers of the old workers again migrated to the mines of the Southwest, where they still predominate. The effect of the new immigration is clearly shown in the western Pennsylvania fields, where the average wage of the bituminous coal worker is 42 cents a day below the average wage in the Middle West and Southwest. Incidentally, hours of labor are longer and general working conditions poorer in the Pennsylvania mines than elsewhere. Another characteristic of the new immigrants contributed to the situation in Pennsylvania. This was the impossibility of successfully organizing them into labor unions. Several attempts at organization were made, but the constant influx of immigrants to whom prevailing conditions seemed unusually favorable contributed to the failure to organize. A similar situation has prevailed in other great industries.

Like most of the immigration from southern and eastern Europe, those who entered the leading industries were largely single men or married men unaccompanied by their families. There is, of course, in practically all industrial communities a large number of families of the various races, but the majority of the employees are men without families here and whose standard of living is so far below that of the native American or older immigrant workman that it is impossible for the latter to successfully compete with them. They usually live in cooperative groups and crowd together. Consequently, they are able to save a great part of their earnings, much of which is sent or carried abroad. Moreover, there is a strong tendency on the part of these unaccompanied men to return to their native countries after a few years of labor here. These groups have little contact with American life, learn little of American institutions, and aside from the wages earned profit little by their stay in this country. During their early years in the United States they usually rely for assistance and advice on some member of their race, frequently a saloon keeper or grocer, and almost always a steamship ticket agent and "immigrant banker," who, because of superior intelligence and better knowledge of American ways, commands their confidence. After a longer residence they usually become more self-reliant, but their progress toward assimilation is generally slow. Immigrant families in the industrial centers are more permanent and usually exhibit a stronger tendency toward advancement, although, in most cases, it is a long time before they even approach the ordinary standard of the American or the older immigrant families in the same grade of occupation. This description, of course, is not universally true, but it fairly represents a great part of the recent immigrant population in the United States. Their numbers are so great and the influx is so continuous that even with the remarkable expansion of industry during the past few years there has been created an oversupply of unskilled labor, and in some of the industries this is reflected in a curtailed number of working days and a consequent yearly income among the unskilled workers which is very much less than is indicated by the daily wage rates paid; and while it may not have lowered in a marked degree the American standard of living, it has introduced a lower standard which has become prevalent in the unskilled industry at large.

On pages 33 and 34 they say:

ASSIMILATION OF IMMIGRANTS.

It is difficult to define and still more difficult to correctly measure the tendency of newer immigrant races toward Americanization, or assimilation into the body of the American people. If, however, the tendency to acquire citizenship, to learn the English language, and to abandon native customs and standards of living may be considered as factors, it is found that many of the more recent immigrants are backward

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in this regard, while some others have made excellent progress. The absence of family life, which is so conspicuous among many southern and eastern Europeans in the United States, is undoubtedly the influence which most effectively retards assimilation. The great majority of some of these races are represented in the United States by single men or men whose wives and families are in their native country. It is a common practice for men of this class in industrial communities to live in boarding or rooming groups, and as they are also usually associated with each other in their work they do not come in contact with Americans, and consequently have little or no incentive to learn the English language, become acquainted with American institutions, or adopt American standards.

On page 37 they say:

As a result of the investigation the commission is unanimously of the opinion that in framing legislation emphasis should be laid upon the following principles:

1. While the American people, as in the past, welcome the oppressed of other lands, care should be taken that immigration be such both in quality and quantity as not to make too difficult the process of assimilation.

2. Since the existing law and further special legislation recommended in this report deal with the physically and morally unfit, further general legislation concerning the admission of aliens should be based primarily upon economic or business considerations touching the prosperity and economic well-being of our people.

3. The measure of the rational, healthy development of a country is not the extent of its investment of capital, its output of products, or its exports and imports, unless there is a corresponding economic opportunity afforded to the citizen dependent upon employment for his material, mental, and moral development.

4. The development of business may be brought about by means which lower the standard of living of the wage earners. A slow expansion of industry which would permit the adaptation and assimilation of the incoming labor supply is preferable to a very rapid industrial expansion which results in the immigration of laborers of low standards and efficiency, who imperil the American standard of wages and conditions of employment.

On page 39 they say:

8. The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in the industries of the country as a whole, and therefore demand legislation which will at the present time restrict the further admission of such unskilled labor.

It is important to remember that the commission was created at the instance of those opposing the illiteracy test, and that their conclusions were evidently the result of long and careful investigations.

The opponents of this test often invoke the message of President Cleveland, on March 2, 1897, vetoing a bill reading as follows:

By adding to the classes of aliens thereby excluded from admission to the United States the following: All persons physically capable and over 16 years of age who can not read and write the English language or some other language; but a person not so able to read and write who is over 50 years of age, and is the parent or grandparent of a qualified immigrant over 21 years of age and capable of supporting such parent or grandparent may accompany such immigrant, or such a parent or grandparent may be sent for and come to join the family or a child or grandchild over 21 years of age, similarly qualified and capable, and a wife or minor child not so able to read and write may accompany or be sent for and come and join the husband or parent similarly qualified and capable.

It will be seen that the bill reported by this committee is much more liberal in many respects than the one falling under Mr. Cleveland's veto. Besides, that was 15 years ago, and the great influx of the class that are now coming in had scarcely begun. For instance, during the year 1897 the total immigration to this country was only 230,832, while for 1911 it was 878,587, the South Italians and Polish being 231,084, which alone was more than the whole number of immigrants from all sources during the year that Mr. Cleveland wrote the message.

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During that year the number from the British Isles was 34,281, that from Germany, 22,533, while that from Italy and Greece was only 60,002. Last year it was 189,950 from Italy alone.

The small immigration from southern and eastern Europe had not then begun to affect economic conditions as they are now being affected.

For the year 1910 the immigration was 1,041,570, of whom 223,453 were from Italy alone. This was only about 7,000 less than the whole number that came in during the year in which Mr. Cleveland sent in his veto.

Most of these new immigrants come through Ellis Island, N. Y. Commissioner Williams, of Ellis Island, in an interview in the New York Herald of the 13th instant, said:

The immigration this month has passed the high-water mark. In April last year, which was a big month and taxed the capacity of the department, 85,575 immigrants arrived at Ellis Island. In April of this year the total is expected to be more than 100,000 immigrants, which will be the record for the department.

* * * * * * *

In March of this year 83,654 immigrants arrived, as against 75,306 of last year.

With the inadequate facilities for examination of these vast numbers who come in during the spring months especially, thousands of diseased, feeble-minded, and otherwise undesirable immigrants are coming in every year. Commenting on the conditions referred to, the Herald in the same article says:

Recently the Herald published statistics showing that more than 60 per cent of the occupants of charitable institutions and insane asylums in New York were foreign born. * * * From the plague-ridden districts of eastern and southern Europe thousands of immigrants are coming here every week. There is no question that many of them are suffering with diseases characteristic of their country, and not a few are in the early stages of consumption.

The New York Times of March 28, 1912, says:

INSANE ALIENS.

The Times is informed by Secretary McGarr, of the State Commission in Lunacy, that, of the 31,432 insane patients under treatment in the 14 State hospitals on February 10 last, 13,163, or 41.9 per cent, were aliens. Foreign-born patients have increased since the Federal census of December 31, 1903, by 1,552, or 13.4 per cent. In the two State hospitals for the criminal insane there were 1,230 patients on February 10, of whom nearly 44.4 per cent were of alien birth; the Federal census of 1910 showed a percentage of aliens to total population in this State of 29.9 per cent.

The prevalence of insanity among immigrants is evidently much greater than among the native born. Of the 5,700 patients admitted to the civil hospitals for the year ending September 30, 1911, 2,737, or 48 per cent, were aliens, and 1,481, or 26 per cent, were of alien parentage, while only 1,224, less than 26 per cent, were of native stock. Of the whole number, the nativity of but 218, which is 3.8 per cent, was not ascertainable. Insanity among the foreign peoples of this city occurs in a still larger percentage of cases. Of the first admissions to the hospitals 2,006 out of 3,221 residents of the city were of foreign birth; that is 64.1 per cent, although the foreign-born population is but 40.4 per cent of the whole.

On page 22, Report of New York State Board of Alienists for year ending September 30, 1911, is the following:

For the first few years after the commencement of that remarkable migration of the races of Southern and Eastern Europe to this country (to which Austria-Hungary, Italy, and Russia have contributed nearly 500,000 persons a year) it is noted that the increase of patients of those nationalities in the State hospitals was gradual. By 1905, however, it was possible to predict that when the effects of the "new immigration" commenced to be felt the "old immigration" (of Germans, Irish, and Scandinavians) would be outdone in the numbers of insane added to the foreign-born population of

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our State hospitals. To-day that prediction is fulfilled, and during the year more than 55 per cent of the aliens deported by the United States Immigration Service were natives of those three countries.

This shows a most alarming condition in the State of New York, where most of the "new immigrants" land. If some check is not put to this influx, how long will it be till the overflow creates the same condition in other States?

What relief will this bill give against the continuance of these alarming conditions? It will cut out nearly 50 per cent of the South Italians, more than 35 per cent of the Greeks, Poles, Syrians, and others of the undesirable classes, while it will not cut out 1 per cent of the Bohemians, English, Irish, Scotch, Welsh, or French, not more than 2 per cent of the Germans or Jews, and not one-half of one per cent of the people from Sweden, Norway, Denmark, or Finland.

Thus it will be seen that a large percentage of the very people that are becoming a menace to the economic conditions of our country will be debarred, while those from northwestern Europe will be scarcely affected at all.

Within the past few years resolutions have been passed by the American Federation of Labor, the Farmers' Union, the National Grange, the Farmers' National Congress, the Junior Order of American Mechanics, and many other industrial and patriotic organizations at every one of their great annual meetings favoring the very remedy that this bill provides, and their petitions have come up to Congress.

It is urged that the illiteracy test will not keep out the Black Hand leaders. This is admitted, but we already have laws to reach this class. Besides, most of the illiterates from the country of the Black Hand live in mortal terror of that criminal, and dare not reveal his crimes or his presence when they know them. For this reason, even where they are not criminals at heart, they often become pliant tools in the hands of the Black Hand leaders, and act at his bidding, and furnish hiding places for the leader himself and for the fruits of his crime.

We believe the standards of wages and living of the workingmen of our country, as well as other economic considerations, demand prompt action by Congress.

We insert a letter from the Secretary of the American Federation of Labor, which is a fair sample of the action taken by the other organizations to which we have referred, and many others:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 18, 1912.

Hon. F. M. SIMMONS,
United States Senate, Washington, D. C.

DEAR SIR: I see by the Congressional Record that you will speak before the United States Senate on the amendment offered by yourself to the immigration bill, S. 3175, and that you will deal specifically with the subject of the restriction by means of the illiteracy test.

In order that you may also know the latest action of the American Federation of Labor on the subject of immigration, I hand you herewith copy of the proceedings of the thirty-first annual convention, held at Atlanta, Ga., last November (1911), on page 66 of which you will find a statement by President Gompers on the subject of immigration, showing the Immigration Commission to have completely indorsed the attitude of the American Federation of Labor upon the general subject matter of immigration, particularly that of the requirement of an educational test. On page 287 of the same report you will find the report of the committee on president's report, reaffirming former actions of the conventions of the American Federation of Labor, and instructing the legislative committee to continue their efforts to secure the passage

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of either the Gardner or the Burnett bill, or, for that matter, any other suitable measure providing for the educational test. This report was unanimously adopted by the convention.

Hoping that this may be of service, and with best wishes for your every success on this important question, I remain,

Yours, very truly,

FRANK MORRISON,
Secretary American Federation of Labor.

The bill is conservative and liberal, and if Congress refuses to pass this legislation at once the demand will become a clamor which will not be satisfied with anything short of most drastic and radical legislation.

We believe that further delay is dangerous, and recommend the immediate passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 559, Part 2.

IMMIGRATION OF ALIENS INTO THE UNITED STATES.

APRIL 25, 1912.—Ordered to be printed.

Mr. SABATH, from the Committee on Immigration and Naturalization, submitted the following

VIEWS OF THE MINORITY.

[To accompany H. R. 22527.]

The undersigned dissent from the report of the majority of the committee reporting the bill H. R. 22527. The illiteracy test provided in the bill will not serve to keep out the viciously inclined, the criminal, or the otherwise really undesirable alien.

Experience has demonstrated the fact that, with the educational facilities afforded in this land, thousands of illiterates, who, unhappily, were denied educational opportunities in their native lands, have learned to read and write here; and have shown an eagerness to acquire knowledge and fit themselves to become good citizens. It will also be noted that the exceptions provided in the bill are not broad enough to fully guard against the separation of families, though the majority of the committee admit that on humane and moral grounds separation of families should, as far as possible, be avoided and prevented. In our opinion the desirable immigrant is the healthy, law-abiding worker, who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer, who, immediately upon arrival, begins to find fault with our institutions.

A. J. SABATH.
HENRY M. GOLDFOGLE.
JAMES M. CURLEY.
J. HAMPTON MOORE.
THERON E. CATLIN.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 563.

TRANSFER OF CERTAIN LAND TO SULPHUR SPRINGS, TEX.

APRIL 17, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. NELSON, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany H. R. 11149.]

The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 11149) to authorize the Secretary of the Treasury to convey to the city of Sulphur Springs, Tex., certain land for street purposes, beg to report the same with the recommendation that the bill do pass.

This bill authorizes the Secretary of the Treasury to convey to the city of Sulphur Springs, Tex., for sidewalk purposes, and no other, a strip off the east end and a strip off the south side of the present Federal building site in that city, not exceeding 9 feet in width. A revocable license to use this strip for sidewalk purposes was granted to the city of Sulphur Springs with the understanding that legislation would be sought deeding the property to the city. The bill is in furtherance of this understanding with the city of Sulphur Springs, and the views of the Secretary of the Treasury are set forth in the following letters:

TREASURY DEPARTMENT,
Washington, May 26, 1911.

Hon. MORRIS SHEPPARD,
House of Representatives.

SIR: In compliance with your verbal request during your call at the department to-day, I have the honor to transmit herewith a draft of a bill to empower the Secretary of the Treasury to transfer to the city of Sulphur Springs, Tex., the strips of land on the east and south sides of the Federal building site there now covered by sidewalks. This transfer is practicable, because the adjoining owner on the west side of the site has deeded to the United States the 9-foot strip along that side of the site, and the First Christian Church of Sulphur Springs has granted the United States an easement in the 5-foot-wide strip of land along the north side of the site, covenanting that said last-mentioned strip shall never be built upon. (For precedent, see Biloxi (Miss.) case, vol. 36, p. 186.)

The department will take up with the city authorities the question of the width of the sidewalks.

Respectfully,

R. O. BAILEY,
Assistant Secretary.

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TREASURY DEPARTMENT,
Washington, January 26, 1912.

CHAIRMAN COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
House of Representatives.

SIR: Referring to your request of the 29th ultimo for a report on H. R. 11149, to authorize the Secretary of the Treasury to convey to the city of Sulphur Springs, Tex., certain lands for street purposes, I have the honor to submit the following:

When the Federal building site at Sulphur Springs was deeded to the United States, the grantors included the land covered by the sidewalks of the abutting streets, which space appears to have been owned by said grantors.

The department intended to acquire only clear building space, exclusive of all sidewalks, and when it was discovered that the sidewalks were not owned by the city, steps were taken to secure correction of the condition. Accordingly, the owners of the land to the west of the site deeded to the United States a strip 9 feet wide along the entire western edge of the site, and the owners on the north gave an easement to the 5-foot wide strip adjoining the site on that side; thus virtually restoring to the United States the amount of ground to be deducted on account of sidewalks.

Upon securing this amendment, the department gave the city of Sulphur Springs a revocable license to use for sidewalk purposes the 9-foot strip off the east end of the site and the 6-foot 2-inch strip off the south side, with the understanding that legislation would be asked for which would authorize the Secretary of the Treasury to deed the last-mentioned strips of land to the city for street purposes.

The above-mentioned bill seems to be in furtherance of this understanding, though it should be noted that it is proposed to convey to the city only 6 feet 2 inches off the south side of said site. It is true that the terms of the bill as drawn, if enacted into law, would permit the transfer of a strip less than 9 feet wide.

This department sees no objection to the adoption of the proposed measure.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

It will not be necessary to convey more than 6 feet 2 inches off the south side, although under the terms of the bill a strip not exceeding 9 feet could be conveyed. The letter of the Secretary of the Treasury will show the necessity of conveying only 6 feet 2 inches off the south side and a 9-foot strip off the east side.

In view of the fact that the interests of the Government will in no way suffer by the conveyance of this property, and in order that jurisdiction over it may be clearly defined, the committee unanimously recommends the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 564.

TRANSFER OF OLMSTEAD LANDS IN NORTH CAROLINA.

APRIL 17, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HAWLEY, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 20738.]

The Committee on Agriculture, to whom was referred the bill (H. R. 20738) for the transfer of the so-called Olmstead lands from the Solicitor of the Treasury to the Secretary of Agriculture, having considered the same, report thereon with a recommendation that it do pass.

The facts in the case are stated in the papers printed herewith.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, April 8, 1912.

Hon. W. C. HAWLEY,
House of Representatives.

DEAR MR. HAWLEY: In accordance with your verbal request I inclose herewith a copy of a letter from the Solicitor of the Treasury to the Secretary of Agriculture dated April 15, 1911, in regard to the proposed transfer to this department of the Olmstead lands in Graham and Clay Counties, N. C. I also inclose a letter from the Secretary of the Treasury dated July 5, 1906, and a letter from the Solicitor of the Treasury to the Secretary of the Treasury dated July 3, 1906. In addition to these letters I inclose a copy of a memorandum prepared by Mr. Clyde Leavitt, of this office, giving a brief historical sketch of the Olmstead lands and their present status. These papers will, I believe, give you the information which you desire to have in regard to these lands.

Very sincerely, yours, WM. L. HALL, *Assistant Forester.*

[Memorandum.]

JUNE 17, 1911.

On March 15, 1869, Levi Stevens and wife conveyed to the United States certain land in North Carolina, in compromise and settlement of an indebtedness due by E. B. Olmstead to the United States. The area of land so conveyed is approximately 32,483 acres, of which 6,280 acres are located in Clay County and the balance in Graham County, N. C.

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Under section 3750 of the Revised Statutes the land has from the date of transfer been under the jurisdiction of the Solicitor of the Treasury. Under section 3749 of the Revised Statutes the Solicitor of the Treasury is authorized, with the approval of the Secretary of the Treasury, to sell unproductive lands. Until comparatively recently there either have been no offers made for the purchase of this land or the offers have been at so low a rate that no favorable consideration could be given them.

In 1905 the question was raised, in a letter from the Secretary of Agriculture to the Secretary of the Treasury, whether under section 24, act of March 3, 1891, entitled, "An act to repeal timber-culture laws and for other purposes," the President had the power to set aside this land as a forest reserve. At the request of the Secretary of the Treasury the Solicitor of the Treasury prepared an opinion, holding that the President had not such power. The question was also taken up with the Treasury Department as to whether objection would be made to a request by the Department of Agriculture for legislation empowering the President to set aside these lands as a part of the then proposed Appalachian National Forest. In reply the opinion was expressed by the Solicitor of the Treasury and concurred in by the Secretary that no objection could be seen to a request for legislation along this line. However, on account of the delay in the passage of the Appalachian bill, no definite action with regard to the securing of legislation has yet been taken.

At various times since 1906 the Secretary of Agriculture has suggested to the Secretary of the Treasury the advisability of withholding these lands from sale in order that should the Appalachian bill become a law the opportunity might not be lost to Congress of holding the Olmstead lands as a part of the national forest system in the Southern Appalachian Mountains. In some cases the question arose upon the initiative of the Department of Agriculture and in others the correspondence was started by the Secretary or Solicitor of the Treasury, on account of offers which had been received for the sale of all or a portion of the lands in question. Both the Secretary and the Solicitor of the Treasury have always agreed that, in view of the proposed legislation for the creation of a national forest in the Southern Appalachian Mountains, it would be unwise for the Government to dispose of these lands.

In 1880, in accordance with instructions from the then Solicitor of the Treasury, Messrs. J. W. Whelpley and Alfred Thomas made an investigation on the ground to determine in a general way the character of the lands and so far as practicable the condition of the titles. The lands were found to be all mountainous in character and heavily timbered, with the exception of a few balds on the mountain tops. It was found impossible to make any satisfactory examination of the titles, since no plats of former surveys were available. It was, however, determined in a general way that some of the titles were defective on account of lappages with other grants from the State. The secretary of state, from whose office grants of land were issued, did not make or preserve plats or surveys covering the lands for which grants were issued. Instead deeds were issued to all comers who produced entries and surveys and paid the purchase money, without any knowledge on the part of the State officials and without the means of ascertaining whether the lands conveyed had been in whole or in part conveyed in previous grants. The result was a great amount of lappage between the various grants and consequent uncertainty and litigation regarding land titles. The rule is, however, that where there is adverse possession the prior entry has the better title. The entries to the Olmstead lands were found to be nearly all very old, and since the lands were wholly unoccupied the title of the Government was believed to be regular and good.

In 1895 E. B. Norvell, an attorney at law, was employed for the purpose of investigating the titles of the Olmstead lands. In connection with his work he employed John R. McLelland and George E. Hayes to make a survey on the ground of the lands in question. Investigation showed that there was a considerable amount of lappage with other grants. The original report and maps submitted are in the office of the Solicitor of the Treasury and copies have been made by the Forest Service. The problematical status of some of the Olmstead lands is indicated by trespass proceedings which are now pending in the Federal court at Asheville, N. C., against the Hiwassee Lumber Co. and R. J. Martin. This case is complicated by the destruction by fire of the Government records when the courthouse was burned at Murphy, N. C., in 1875. This case is now being handled by A. E. Holton, United States attorney, at Winston-Salem, N. C., and its outcome will undoubtedly determine to a very considerable extent the status of a large part of the lands of the Olmstead tract.

On March 1, 1911, the Weeks bill became law providing for the acquisition of lands for the purpose of conserving the navigability of navigable streams. On April 10 the Secretary of Agriculture wrote the Solicitor of the Treasury referring to this fact and asking whether any objection existed to the preparation of a bill by the Department of Agriculture providing for the transfer of jurisdiction of the Olmstead lands to the

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Agricultural Department for administration as a part of the proposed national forest system in the Southern Appalachian Mountains.

On April 15, 1911, the Solicitor of the Treasury, replying to the inquiries of the Secretary of Agriculture, stated that he not only had no objection to the proposed legislation, but heartily approved of it. He called attention to the fact that no revenue has ever been received by the United States from the land since its conveyance to the Government and it has hitherto been found impracticable to dispose of the land under the provisions of law.

The Solicitor of the Treasury having thus given his approval, the Solicitor of the Department of Agriculture has accordingly prepared a draft of a bill for the transfer of the Olmstead lands from the Solicitor of the Treasury to the Department of Agriculture.

A copy of this draft is attached to this memorandum, together with a copy of the letter dated April 15 from the Solicitor of the Treasury to the Secretary of Agriculture.

CLYDE LEAVITT.

DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., April 15, 1911.

The SECRETARY OF AGRICULTURE.

SIR: I am in receipt of your letter of 11th instant in which, referring to the correspondence heretofore had between this office and yourself in relation to the so-called Olmstead land in Graham and Clay Counties, N. C., you inquire whether I have any objections to the preparation of a bill by your department to be introduced in Congress transferring jurisdiction of said land from the Solicitor of the Treasury to the Secretary of Agriculture for national forest purposes as provided in the act of March 1, 1911. (Public No. 435.)

In reply to your inquiry, I have to say that not only have I no objections to such action, but I heartily approve of it. No revenue has ever been received by the United States from the land since its conveyance to the Government, and it has hitherto been found impracticable to dispose of the same under the provisions of section 3749, United States Revised Statutes, the only way by which it could be sold.

It would seem, therefore, that the transfer from the Solicitor of the Treasury to the Secretary of Agriculture for the purpose stated, as proposed, is not only entirely proper but desirable.

I suggest that in the preparation of the bill in question it be made to cover and include the transfer of all title papers and correspondence relating to the land on the files of this office at date of the transfer.

Respectfully,

W. T. THOMPSON, *Solicitor.*

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 5, 1906.

The SECRETARY OF AGRICULTURE.

SIR: In reply to your letter of the 26th ultimo, relative to a certain tract of land comprising 32,483 acres of land in Graham and Clay Counties, N. C., I have the honor to state that I would approve an amendment to the bill, S. 4953, to make said tract a part of the proposed forest reservation, and will take no action looking to the disposal of the land in question without further consultation with you.

A letter from the Solicitor of the Treasury, in whose custody the land is placed by law, is transmitted herewith, for your information.

Respectfully,

L. M. SHAW, *Secretary.*

DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., July 3, 1906.

The SECRETARY OF THE TREASURY.

SIR: You refer to me a letter to you from the Secretary of Agriculture transmitting a copy of a bill (S. 4953) which passed the Senate on June 22, 1906, relating to the establishment of forest reserves in the Appalachian and White Mountains. There is by law (sec. 3750, R. S.) in my custody as Solicitor of the Treasury some 32,483 acres of land in Graham and Clay Counties, N. C., which the Secretary of Agriculture is desirous of

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having included within the proposed Appalachian Forest Reserve; and he suggests, if it may be properly done, that the land in question be not disposed of before next winter, at which time, he says, the chances are very strong that the bill in question will become a law. The Secretary inquires if you would approve an amendment to the bill making the land a part of the proposed reservation and if the land may be withheld from sale until action is taken on the pending bill. My views are requested by you in the premises.

Several letters have heretofore been addressed to you by me in relation to the setting aside of the land in question for the purpose stated. These letters are dated, respectively, August 23, October 30, and November 18, 1905, and they contain a description of the land, etc. It will be seen therefrom that the land was conveyed to the United States in the year 1869. There does not now appear to be any probability than an opportunity for a satisfactory sale thereof will occur before Congress takes action on the pending bill, and even if such opportunity should offer I see no objection to deferring action in the matter for the time and purpose mentioned in the Secretary's letter. The inclusion of the land in the proposed reservation would, in my opinion, be eminently proper, and inasmuch as the land as stated above is in my charge by law I will now state that no disposition of it will be made by me pending the proposed congressional action or without first communicating with the Secretary of Agriculture in the premises.

The papers referred to me are herewith returned as requested.

Very respectfully,

M. D. O'Connell, *Solicitor.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 565.

PUBLICITY OF CONTRIBUTIONS USED IN SECURING OR INFLUENCING NOMINATION OF CANDIDATES FOR PRESIDENT AND VICE PRESIDENT OF UNITED STATES.

APRIL 17, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. RUCKER of Missouri, from the Committee on the Election of President, Vice President, and Representatives in Congress, submitted the following

REPORT.

[To accompany H. R. 23349.]

Your committee having had under consideration H. R. 23349, beg to report as follows:

This bill seeks to extend the provisions of the publicity act of June 25, 1910, as amended August 19, 1911, to the "president, chairman, secretary, manager, or other person in charge of any political headquarters, bureau, or committee of any political organization or party which shall attempt to influence or secure the nomination of any person as a candidate for the office of President or Vice President of the United States," and to make the bill if it becomes law applicable, as far as possible, to the contests now being waged for such nominations.

This bill suggests no limitation upon the amount which any person may contribute, though the committee feels that such limitation ought to be imposed by proper legislation in the very near future.

All that is sought to be accomplished by this legislation is to secure full publicity, both before and after nomination, of the source from which contributions come, the total amount received, the total sum expended, and the purposes for which the same was expended.

If reports found in the daily press are reasonably accurate, and the enormous sums therein stated to have been collected and expended have actually been used or are being used in connection with existing contests for nomination, no stronger argument can be made for the early passage of the measure reported.

The committee suggests that the bill be amended as follows:

On page 2, in line 17, strike out "thirty" and insert "ten."

Your committee recommends that the amendment be agreed to and that the bill as amended do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 566.

EXCHANGE OF SCHOOL LANDS.

APRIL 17, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RAKER, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 19344.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 19344) to authorize the Secretary of the Interior to exchange lands for the school sections within an Indian, military, national forest, or other reservation, and for other purposes, having had the same under consideration, report it back with the following amendments:

Page 2, in line 2, strike out the word "made" and substitute therefor the word "approved."

Page 2, lines 3 and 4, strike out the words "upon approval of such exchange" and also the comma after the word "exchange."

Page 2, add after line 4 the following: "*Provided*, That upon completion of the exchange the lands relinquished, reconveyed, or assigned as base lands which fall within the exterior boundaries of a national forest shall immediately become a part of the national forest within which they are situated," and change the period to a semicolon after the word "State," at the end of line 4 on page 2.

This legislation is recommended by the Department of the Interior, the Department of Agriculture, and the Department of Justice. Also the authorities of the State of California, and also by the legislation of the State of California, which is for the purpose of carrying out an adjustment and settlement had between the Land Department and the authorities of the State of California, confirmed by the legislation of that State. This legislation appears to be necessary and is urged by the Department of the Interior as well as the authorities of the State of California, as will appear from the hearings had before the committee. The committee has had full hearings upon this matter, which have been printed.

The report of the Department of the Interior, the Department of Justice, and the Department of Agriculture, and a copy of the act of

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legislation of the State of California and the report of the attorney general and the surveyor general of the State of California follow:

[H. R. 19344, Sixty-second Congress, second session.]

IN THE HOUSE OF REPRESENTATIVES.

February 2, 1912.

Mr. Raker introduced the following bill; which was referred to the Committee on the Public Lands and ordered to be printed.

A BILL To authorize theSecretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to make exchange of lands with the several States for those portions of the lands granted in aid of common schools, whether surveyed or unsurveyed, which lie within the exterior limits of any Indian, military, national forest, or other reservation, the said exchange to be made in the manner and form and subject to the limitations and conditions of sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six of the Revised Statutes, as amended by act of February twenty-eighth, eighteen hundred and ninety-one (Twenty-sixth Statutes, page seven hundred and ninety-six), and any such exchange whether heretofore or hereafter made shall restore full title in the United States to the base land, upon approval of such exchange, without formal conveyance thereof by the State.

By request, the chairman of the Public Lands Committee submitted the matter to the Department of the Interior, and on February 19, 1912, Mr. Samuel Adams, Acting Secretary of the Department of the Interior, made the following report:

DEPARTMENT OF THE INTERIOR,
Washington, February 19, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: In response to your request for a report on House bill 19344, entitled "A bill to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes," I have the honor to submit the following:

It is understood that the bill was introduced at the instance of the officials of the State land department of the State of California for the purpose of and with a view to aiding the State in the adjustment of the grant to the State for common-school purposes, which has been in a very unsatisfactory condition and practically a state of suspension for several years. The provisions of the bill are largely declaratory of the act of February 28, 1891 (26 Stat., 796), amending sections 2275 and 2276 of the United States Revised Statutes, as construed and administered by the department for a number of years, but as framed expressly authorizes exchanges of lands which are within the exterior limits of any Indian, military, national forest, or other reservation. It is also provided that any such exchange, whether heretofore or hereafter made, shall restore full title to the United States to the base land, upon approval of such exchange, without formal conveyance thereof by the State.

School sections in national forests are now held to be subject to exchange under the provisions of the act of 1891, supra, as lands being otherwise reserved, whereas the bill expressly authorizes the exchange of such lands, whether surveyed or unsurveyed, and vests title in the United States to such sections which have heretofore been used as base for selections made and approved to the various States.

Under the act of 1891 as now administered the exchanges made thereunder are not complete and title to the tracts of land exchanged does not vest in the State until the approval thereof by the Secretary of the Interior and the subsequent certification of the selections to the State by the General Land Office. The title vests in the contracting parties upon the date of the certification and not on the date of the approval of the selections.

As to the clause in the bill providing that no formal conveyance of the base tracts by the State to the United States be necessary to vest title, it may be stated that no such conveyances have been required by the department for a number of years. In

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an opinion of the Assistant Attorney General of the department, dated January 26, 1901 (30 L. D., 438), the deed of reconveyance was held not to be necessary, for the reason that the selection of indemnity of itself amounted to a waiver of the State's claim, or, in other words, operated to transfer the legal title of the State to the United States.

In that opinion the right of the State to indemnity for school lands in forest reserves is dependent solely on the proposition that the selection of indemnity constituted a waiver of the State's claim and that Congress has full authority to declare what effect shall be given to such a selection, and no distinction could be based upon the fact that the title to the base lands had or had not vested in the State prior to the selection.

There may have been some doubt heretofore as to the meaning of that clause of section 2275, Revised Statutes, under which exchanges of school lands between the several States and the United States are now effected. If any such doubt has existed, it will be conclusively removed should this bill be enacted into law, and for this reason I recommend that the bill be passed.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

This matter was reported to the Attorney General, of the Department of Justice, and on February 7, 1912, he made a report thereon as follows:

DEPARTMENT OF JUSTICE,
Washington, February 7, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: I have received your letter of February 3, 1912, inclosing for such suggestions and recommendations as may be deemed necessary a copy of H. R. 19344, Sixty-second Congress, second session, authorizing the Secretary of the Interior to exchange lands for school sections within Indian, military, and other reservations.

This bill authorizes the Secretary of the Interior to make exchanges of lands with the several States for those portions of school sections, whether surveyed or unsurveyed, lying within the exterior limits of any reservation, the exchange to be made in the manner and form and subject to the limitations of sections 2275 and 2276 of the Revised Statutes, as amended by the act of February 28, 1891 (26 Stat., 796), and provides that any such exchange, whether heretofore or hereafter made, shall restore to the United States full title to the base land without any formal conveyance by the State.

I have the honor to advise you that authority to make exchanges of school sections included within the exterior boundaries of reservations, prior to the survey of such school sections, already exists under the act of February 28, 1891, supra. The Department of the Interior also holds that authority likewise exists under the said act of 1891 to make exchanges of school sections included within the exterior limits of reservations even after the survey of such school sections (see 34 Land Decisions, 599, and cases cited), and I understand that many thousands of acres of such lands have been exchanged. However, it has been held by at least one Federal court that the act of 1891 does not authorize a State to exchange school lands which had been surveyed prior to the creation of the reservation within the exterior limits of which the school section is embraced. (Hibbard *v.* Slack, 84 Fed., 579.) It would seem, therefore, that the enactment of some such legislation as that proposed in this bill will serve a useful purpose.

Respectfully,

ERNEST KNAEBEL
(For the Attorney General),
Assistant Attorney General.

DEPARTMENT OF THE INTERIOR,
Washington, April 17, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: At your instance I have carefully considered the committee's proposed amendment to H. R. 19344, being a bill to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, which amendment proposes to change that portion of the bill which now reads "and any such exchange, whether heretofore or hereafter made, shall restore full title to the United States to the base land upon approval of such exchange without formal conveyance thereof to the United States," so as to read, "and any such exchange, whether heretofore or hereafter approved, shall restore full

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title in the United States to the base land without formal conveyance thereof by the State."

Now, in my opinion, the language employed in both instances means the same thing, but I rather incline to the committee's amendment because it is more direct and perhaps freer from doubt. Of course, no exchange is made until it is approved, and therefore to have the bill provide that "any such exchange, whether heretofore or hereafter approved," is technically more correct, and when so changed renders the latter expression "upon approval of such exchange" unnecessary.

In this connection I have noted the objections to the proposed change made by the attorney general and surveyor general of the State of California. They seem to fear that any change in the bill as originally drawn may result in advantage to those seeking to force the State to make sale to them of base lands used in selections already made. I am free to say that I can not see how this amendment can have that effect.

"The power of the Secretary to approve selections is judicial in its nature, and implies the duty to determine as of the time of filing the selection, and the doctrine of relation applies to decisions as to validity of such selections." (Syllabus, Weyerhaeuser *v.* Hoyt, 219 U. S., 380.)

The selections by the State have always been accorded segregative effect from the time of their filing and under the decision referred to, if approved, would have relation as of the time of filing.

I do not see how more effective legislation could or should, be extended in behalf of the State of California than as hereinbefore indicated, with respect to its selections heretofore or hereafter made, and in conclusion must say that the committee's proposed amendment seems to be entirely satisfactory to the Government and is not shown to be, nor do I believe it will be, prejudicial to the interests of the State in the premises.

Very respectfully,

F. W. CLEMENTS,
First Assistant Attorney.

The following is a letter from the Department of Agriculture:

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, D. C., April 16, 1912.

Hon. JOS. T. ROBINSON,
Chairman Committee on Public Lands, House of Representatives.

DEAR Mr. ROBINSON: I am in receipt of your letter of April 10 inclosing a copy of the bill (H. R. 19344) introduced by Mr. Raker to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

By letter of February 15, 1912, to you, I reported upon this bill and submitted the recommendations of this department. Since my first letter has evidently not reached its intended destination, I inclose a copy of it for your information.

Very sincerely, yours,

JAMES WILSON, *Secretary.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, D. C., February 15, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on Public Lands, House of Representatives.

DEAR Mr. ROBINSON: Your letter of February 3 inclosing a copy of the bill (H. R. 19344) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, is received.

The bill has been carefully considered in this department and it seems that it will not change the existing law with respect to State indemnity selections other than it is at the present time interpreted by the Secretary of the Interior, who has jurisdiction to construe such matters. Its purport seems to be more in the nature of having Congress confirm what is being done under existing law. I would suggest, however, that the following amendment be added at the end of the bill, to clearly define the status of the reconveyed or relinquished lands of the State which fall within the boundaries of national forests:

"*Provided*, That upon completion of the exchange, the lands relinquished, reconveyed, or assigned as base lands which fall within the exterior boundaries of national forests shall immediately become a part of the national forest within which they are situated."

Very sincerely, yours,

JAMES WILSON, *Secretary.*

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A letter dated February —, 1912, by Mr. A. W. Sanborn, deputy surveyor general, upon this same subject. It is as follows:

WASHINGTON, D. C., *February —, 1912.*

Hon. JOHN E. RAKER,
House of Representatives.

MY DEAR SIR: In connection with the draft of bill left with you yesterday, entitled "A bill to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes," I wish to state that the measure is proposed at the earnest solicitation of the surveyor general and the attorney general of the State of California, and was drafted after consultation with officials of the Interior Department.

Gen. Webb, Gen. Kingsbury, and myself are of the opinion that such legislation is desirable and important, in aid of the adjustment of the school grant concerning which a controversy has long existed.

As you well know, nothing so retards the development of a State as uncertainty and litigation over land titles, and conditions in California in this respect have certainly been very distressing because of the long delay in the issuance of titles, or evidence of title, by the General Government.

I am of the opinion that the measure proposed, if enacted, will expedite the adjustment of the difficulty now existing, and I solicit your earnest endeavor in its enactment.

I inclose herewith, for your information, a copy of the basis of adjustment of the California school grant, agreed upon by officials of the Department of the Interior and the State authorities; also a copy of the recent act of the legislature, accepting the same and providing for carrying it into effect.

Very respectfully, A. W. SANBORN.

Some time in July or August, 1911, the attorney general of the State of California and the surveyor general of California appeared at Washington and had a conference with the United States Attorney General and also the Secretary of the Interior and the Commissioner of the General Land Office in regard to the lands in the State of California which are tied up and creating a great deal of trouble between those that claimed them—the State and others—and amounting to somewhere from 400,000 to 450,000 acres of land.

This is the basis of adjustment. It reads as follows:

BASIS OF ADJUSTMENT.

(1) That there be paid to the United States, as under the provisions of the act of Congress approved March 1, 1877 (19 Stat., 267), $1.25 per acre in satisfaction of all excess certifications of indemnity school lands which occurred prior to the date of approval of said act, and for which said lands no payment has as yet been made to the United States.

(2) That new and valid bases be designated by the State for all selections that have been or may be approved, made on the basis of lands in sections 16 and 36, claimed or reported to be mineral in character, or embraced in forest or other reservations, and wherein such base tracts have been, or may be, sold or encumbered by the State; provided, however, that new base need not be designated in any case wherein the United States has disposed of, by patent, the tract in lieu of which indemnity was claimed and granted.

(3) That new and valid bases be designated by the State for approved selections in all cases wherein there have been, or may be, excesses in certifications occurring since March 1, 1877.

(4) That lands in sections 16 and 36, which, under the provisions of the act of Congress approved March 1, 1877 (19 Stat., 267), are the property of the United States, and which have been sold or encumbered by the State, are to be selected by the State, it being understood that the requirements of publication of notice and the filing of nonmineral affidavits in support of such selections be waived by the Land Department of the United States.

(5) That the State of California will enact such additional laws as may be necessary to carry into effect the plan of adjustment herein contained, and the Land Department of the Federal Government will favor and will use its good offices to have passed

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and approved such legislation by Congress as may be necessary to consummate such plan.

(6) That the Land Department will immediately proceed with the listing of all selections made by the State where the base is free from objection and the lands applied for are subject to selection by the State; provided the governor of the State of California shall first agree to specify and state in a call or proclamation for a special or extraordinary session of the State legislature, to be made and held some time during the year 1911, as one of the purposes for which the legislature is so convened, the subject and consideration of such legislation as may be required to consummate the within plan of settlement; and provided further, that if such necessary laws be not enacted at such special session the plan of adjustment herein contained may be deemed without force and effect.

Under and in pursuance of this agreement the governor of the State of California included in a call for an extraordinary session of the Legislature of California the provisions contained in this agreement, and thereunder, and on the 24th day of December, 1911, the Legislature of the State of California passed the following act:

CHAPTER 21.—An act to authorize the adjustment and settlement of a controversy existing between the United States and the State of California, in relation to the grants made by Congress to the State of California for the benefit of the public schools, and internal improvements, authorizing the conveyance of land by officers of the State for the purpose of making such adjustment and settlement, and making an appropriation to carry out the provisions hereof.

[Approved December 24, 1911.]

Whereas under the terms and provisions of certain acts of Congress of the United States 500,000 acres of land were granted to the State for internal improvement and the sixteenth and thirty-sixth sections in each township, and lands in lieu thereof, were granted to the State of California for school purposes; and

Whereas it is claimed by the United States that prior to March 1, 1877, there were listed to the State of California approximately 16,000 acres of land, in excess of the amount of land to which the State was justly entitled, also that the State has received indemnity for certain sixteenth and thirty-sixth sections of land assumed to be within the exterior boundaries of Mexican grants, which sixteenth and thirty-sixth sections were subsequently either wholly or partially excluded from such grants and subsequently sold by the State, the total area being approximately 10,151 acres; also that the State has received indemnity for certain sixteenth and thirty-sixth sections, alleged to be mineral in character, which said school sections the State sold in place, either before or after receiving indemnity therefor, the total area being approximately 8,715 acres; also that the State received approximately 2,028 acres in excess of the 500,000-acre grant; and

Whereas the Department of the Interior has for many years withheld from certification the greater part of the lieu land selected by the State, pending a settlement of said matters, and there remains to be listed to the State upward of 450,000 acres, which, if listed, would be subject to taxation: Now, therefore,

The people of the State of California do enact as follows:

SECTION 1. There shall be paid to the Federal Government by the State of California, acting through the officers hereinafter mentioned and in the manner and upon the terms and conditions hereinafter set forth, the sum of one and twenty-five one-hundredths dollars per acre for all excess certifications of indemnity school lands, which occurred prior to March 1, 1877, and for which said lands no payment has as yet been made to the United States.

SEC. 2. The officers of the State of California mentioned in sections 3519 and 3520 of the Political Code of said State are hereby authorized, empowered, and directed, in the manner in said sections provided, to convey to the United States by patent or otherwise such an amount of land in sections 16 and 36, situated in national forests or other reservations, as will equal in area all selections that have been heretofore listed or certified by the Government to the State of California, made in lieu of sections 16 and 36, claimed or reported to be mineral in character, or embraced in forest or other reservations, and wherein such base tracts have been or may be sold or encumbered by the State: *Provided, however*, That no lands shall be patented in any case wherein it shall be found that the United States has disposed, by patent or otherwise, of the tract in lieu of which indemnity was claimed and granted.

SEC. 3. The officers of the State referred to in section 2 hereof are hereby authorized and directed to convey, by patent or otherwise, to the United States, in addition

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to the 12,000 acres heretofore granted, an amount of land equal in area to any additional excess in certifications occurring since March, 1877.

The surveyor general of the State of California is hereby authorized and empowered to locate and select in the United States Land Offices, for the benefit of persons having certificates of purchase or patents from the State, lands in sections 16 and 36, which, under the provisions of the act of Congress approved March 1, 1877, and commonly known as the Booth Act, are claimed to be property of the United States, but which said lands have been heretofore sold or encumbered by the State. The said lands hereby authorized to be selected are lands which have been heretofore used or designated by the State of California as basis for indemnity selections, and for which the State of California received indemnity, but which said lands in said sections 16 and 36 the said State also sold or encumbered. For the purpose of making the selections hereby authorized to be made, the said surveyor general is hereby authorized and empowered to use and designate any basis or lands mentioned in section 3406*a* of the Political Code of the State of California, or any other basis, which may be proper or valid in making indemnity selections.

SEC. 4. For the purpose of carrying into effect the terms and provisions of this act, the surveyor general of the State of California is authorized and directed to ascertain and determine from the records of his office and the records of the Department of the Interior the amount of lands which should be conveyed to the United States and likewise the number of acres of land as in this act provided for, which the State has, by the terms of this act, authorized and directed payment to be made, and after said facts have been ascertained and determined, the said officers of said State, referred to in sections 2 and 3 hereof, are hereby authorized and directed to make, execute, and deliver for said State, in its name and as its act and deed, any and all written agreements, deeds, patents, or conveyances necessary to carry out and consummate the terms of this act.

SEC. 5. The sum of $25,000 is hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act and paying all necessary expenses of the surveyor general and attorney general in connection herewith, and the State controller is hereby authorized and directed to draw his warrant or warrants in favor of the United States, or the proper officers thereof, for such amount as may be payable to said United States under the terms hereof, and also to draw his warrant or warrants for the necessary expenses of the surveyor general and the attorney general in carrying out the provisions of this act, and the State treasurer is hereby directed to pay the same.

This is the agreement between the Department of the Interior and the authorities of the State of California—as between those two and not as affecting the rights, whatever they might be, between the State and private individuals. This land has been held, most of it, for years. Great values have been placed upon it by improvements and it has been assessed for many years. The Supreme Court of the State of California has lately held that the land was nonassessable, and therefore parties have been collecting back taxes from the counties; in other words, it is nontaxable in the State of California, and the conditions are such that there can be no adjustment between the State and private individuals and the Government; hence the general legislation.

A letter of the attorney general of the State of California dated March 11, 1912, covering this subject, gives the full history and the purpose of the proposed bill. It is as follows:

STATE OF CALIFORNIA, OFFICE OF ATTORNEY GENERAL,
Sacramento, March 11, 1912.

Hon. JOHN E. RAKER,
Representative in Congress, Washington, D. C.

DEAR SIR: Your favor of February 16, 1912, inclosing copy of H. R. 19344, together with copy of a telegram received by you from Mr. Fred W. Lake in regard thereto, duly received. In reply to your inquiry as to the general situation, I beg to say:

By the act of Congress of 1853 there was granted to the State of California the sixteenth and thirty-sixth sections of land in each township. If, before survey, those sections became subject to preemption or homestead claims, or were mineral in

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character, or where deficiencies existed on account of fractional townships, the State then became entitled to indemnity for such loss, and might select other lands of equal acreage in lieu thereof. While the grant of these sections was one in presenti, yet, as the title thereto did not pass until survey, the appropriation of the same by the Government, or by one claiming through it, before such survey, lost to the State such section or sections so subject to such prior appropriation, and hence the State would be, in such instances, entitled to select other lands in lieu thereof; but as the title of the State does vest immediately upon survey, a reservation established by the Government subsequently to survey, the exterior boundaries of which would include such sixteenth and thirty-sixth sections, would occasion no loss to the State, the title having already vested in the State and not being divested thereby. Hence the State, notwithstanding the fact that these sections might be within the exterior limits of national reservations created subsequent to survey, had full title and could sell or otherwise dispose of the same. (See Hibbard *v.* Slack, 84 Fed., 571, decided in 1897.)

In the Hibbard case it was contended that, by virtue of the act of Congress of February 28, 1891, amending sections 2275 and 2276 of the Revised Statutes of the United States, the State of California was entitled to select other lands in lieu of sixteenth and thirty-sixth sections of school lands, situated within the exterior boundaries of a public reservation, where said sections were surveyed and became the property of the State prior to the date when the reservation was created, but the court held, as above stated, that such was not the fact.

In 1901, however, Assistant Attorney General Van Devanter rendered an opinion, which was adopted by the Secretary of the Interior, to the effect that the State of California could so select other lands in lieu of such surveyed sections, and the department has, apparently, continued to hold to this view.

After the amendment in 1891 of sections 2275 and 2276 of the Revised Statutes of the United States, above referred to, a great many selections were made by the State based upon surveyed school sections situated within the exterior limits of national forests or national reservations, which are still pending before the General Land Office at Washington for approval or rejection. So far as the General Land Office is concerned, it will in all probability recognize as valid bases surveyed school sections and certify other lands in lieu thereof.

The State continued to make selections, using as bases therefor surveyed school sections situated in national reservations up to some time after the present surveyor general of California, Hon. W. S. Kingsbury, took office in 1907. In an endeavor on his part to administer the duties of his office in a careful manner, he discovered that some question did exist as to the validity of selections so made, and referred the question to me. As a result of my advice to him he discontinued making selections upon surveyed school sections until after the passage of the "Thompson Act," hereafter referred to.

The laws of California were such that after a selection was made, if the land selected (not the bases for the selection) was open to selection or entry, the register and receiver of the local land office thereupon notified the State land office of the acceptance of such selection, and thereupon a certificate of purchase was issued by the State for the selected land, although the title still remained in the United States and could not pass to the State until final action by the commissioner at Washington. The condition, therefore, that the present surveyor general was confronted with at the time he assumed office was this: Several hundred selections had been made in which the State had designated surveyed bases, concerning the validity of which some question might be raised.

The State had issued to most of these State applicants certificates of purchase which also under the law were assignable, and many had been assigned. The surveyor general and myself, after careful consideration of the matter, believed that, under the circumstances, legislation should be provided, to the end that if the surveyed sections used as bases were not available as such when used they should be made so, in order that holders of these certificates of purchase might secure the land described therein. For this purpose the legislature of California, in 1909, provided that surveyed school sections should be valid bases, and upon the listing of the selected lands to the State the title to such surveyed school sections should immediately vest in the United States. These provisions of the law of California so passed in 1909 were sufficient, so far as the State was concerned, to pass the title to these surveyed school sections to the Federal Government upon the listing of lands in lieu thereof, but if the provisions of sections 2275 and 2276 of the Revised Statutes of the United States were insufficient to authorize the General Land Office to accept selections made upon surveyed school sections, then the law of California would be of no avail; hence, although the department, as above stated, seems to be willing to accept such selections, we deem it important to

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have an act passed by Congress to the same effect. The act introduced by yourself is intended to accomplish this purpose.

Shortly after Mr. Kingsbury took office as surveyor general of California, in January of 1907, he also discovered that indemnity or lieu lands were almost entirely controlled by F. A. Hyde. Hyde was enabled to control these lands by reason of the fact that until a section of school lands was placed within the limits of a reservation created by proclamation of the President, no lands could be selected in lieu thereof, nor could any applicant file an application for lieu lands in the State land office. For years Mr. Hyde was enabled to secure the first information as to the creation of national reservations, which thereby enabled him, under the laws of California, to file applications before any other person had the necessary information. To correct this condition and to permit the State to secure the benefit of controlling these lieu-lands selections, Senator Thompson, the surveyor general, and myself drafted a bill which is known as the "Thompson bill," and which was passed by the legislature in 1909, which was the first session of the legislature after Gen. Kingsbury took office. This bill withdrew all such sixteenth and thirty-sixth sections from sale or use by any person and provided a method of sale at public auction. The plan has worked very well and has enriched the State to the extent of several hundred thousands of dollars; the last sales bringing close to $10 per acre instead of $1.25, as they had previous to that time. It also had the effect of stopping the activities of F. A. Hyde and those operating with him.

At these sales no land is sold directly, but the basis is sold and a certificate of indemnity or scrip issued, which is used as the basis for a selection from vacant Government land.

In the latter part of 1908 we began work on proposed legislation which we deemed necessary to correct the conditions arising by reason of the facts referred to above which resulted in the passage of the so-called "Thompson Act." This act you will find incorporated in the Political Code (secs. 3398 to 3408e). The main objects desired to be attained by such legislation were to enable the State to control the bases for indemnity selections, and likewise to make surveyed sections situated within national reservations available as bases for lieu selections. By making such surveyed sections available as bases, not only would the doubt as to the regularity of selections theretofore so made be removed, but, likewise, it would bring to the State a large increase in price theretofore received for lands, as these sections in place were, to a large extent, quite valueless, whereas if used as bases for lieu selections they would bring as demonstrated by the operations under the Thompson Act, from $6 to $10 per acre.

Mr. Lake, representing some 300 or more applicants, commenced the attempted filing of applications on these surveyed school sections in place in the latter part of 1908 and continued to present applications until the Thompson Act went into effect. He apparently attempted to cover every school section situated within the limits of national reservations, and particularly did he attempt to cover all such sections which had been used as bases for indemnity selections. If he is successful, the greater portion of all such selections made for the past 15 or 20 years will be rejected by the General Land Office at Washington, although the State has already issued, and there have been outstanding for years in a great many instances, certificates of purchase for most of these selected lands. The surveyor general refused to file or to recognize the applications so presented by Mr. Lake for these school sections which had been used as bases for lieu-land selections, and Lake has now commenced in the courts of California, in the names of these applicants, proceedings to enforce the filing of the same. Just as soon as the legislature met in 1909 we attempted to correct the condition of things by withdrawing such school sections so situated within national reservations and providing that they should be used only as bases for indemnity selections, and also by providing that where already so used as bases, such bases should be good and valid; but Lake's contention is that in view of the fact that the applications of the persons represented by him were presented prior to the withdrawal of such lands from sale in place, they acquired a vested right which the subsequent legislation could not destroy. I am strongly of the opinion that this contention will not be upheld by the courts, as it has been held many times that a person gains no vested rights by the mere presentation or filing of an application, and notwithstanding such fact the legislature still has the right to withdraw the lands from sale, or to otherwise dispose of them. Mr. Lake objected very strenuously before the legislative committees to the passage of the acts withdrawing these lands from sale, but the Legislature of California, with full knowledge of all the facts, withdrew the same and upheld the position we have taken in every respect.

Of course the many applicants represented by Mr. Lake did not know the conditions prevailing, and in most if not all instances had never seen the lands applied for; but Lake, knowing that some question existed as to the validity of the selections made upon surveyed bases, saw a chance of either securing these school sections in

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place or so clouding the title thereto as to cause the Land Department of the Government to reject selections based thereon. Of course, among the selected lands will be found many thousands of acres extremely valuable, and it is easy to see that if the applicants for these selected lands, or their assignees, find that their selections are to be rejected by reason of Mr. Lake's activities in attempting to secure the base, they would be willing to pay a large amount per acre to settle with him.

Under all the circumstances, I sincerely believe that there is no other course open but for the State to use every fair and honorable means to make these surveyed sections available as bases for lieu selections. To a certain extent the predecessors in office of Gen. Kingsbury were justified in using surveyed school sections as bases, in view of the opinion of Assistant Attorney General Van Devanter, above referred to, and also in view of the attitude of the department recognizing the right of the State to do so. At all events it would seem to me that the equalities are all on the side of the State lieu-land applicants, and that the persons represented by Mr. Lake have no just complaint because they acted through him entirely, and he knew the exact situation when he attempted to make his filings, and did so knowing that if he was eventually successful, the selections made for the lieu-land claimants must be rejected by the department.

I trust that you will pardon the length of this letter, but the matter is of such importance that I deemed it advisable to acquaint you with the facts.

Your wire of 10th instant states, "Public Lands Committee will hear House bill No. 19344, in reference to lieu lands, on March 20," duly received, and I take it that the information contained in this communication answers any questions you desire answered in said telegram.

I desire to thank you for your interest in this matter, and assure you that your efforts are thoroughly appreciated.

Yours, very truly,

U. S. WEBB, *Attorney General,*
By E. B. ROWEN, *Assistant.*

A letter to the Department of the Interior on March 29, 1912, and their reply under date of April 2, 1912, as follows:

MARCH 29, 1912.

Hon. WALTER L. FISHER,
Secretary of the Interior, Washington, D. C.

DEAR SIR: On February 2, 1912, I introduced a bill (H. R. 19344) to adjust the land differences between the United States and the State of California. This bill has been referred to the Secretary of the Interior and a favorable report made thereon,

The matter has been before the committee and will be considered Tuesday, April 2, 1912, at 10 o'clock a. m., by the Committee on the Public Lands. There have been two amendments suggested to the bill by various parties—one by Mr. Lake, of Oakland, and the other by Mr. Bolton, of San Francisco.

I therefore telegraphed to W. S. Kingsbury, State surveyor general, on March 25 in relation to the Lake amendment, as follows:

WASHINGTON, D. C., *March 25, 1912.*

Hon. W. S. KINGSBURY,
State Surveyor General, Sacramento, Cal.:

Lake submits to committee proposed amendment to House bill 19344, as follows:

"*Provided, however,* That nothing in this act and no exchange made or ratified under the provisions of this act shall impair the rights or claims of any persons to any land ceded, conveyed, or waived to the United States as a basis for such exchanges where such rights or claims are held adversely to such cession, conveyance, or waiver."

Wire me immediately your position upon this amendment proposed by Lake.

and on March 26 received his telegraphic answer, as follows:

SACRAMENTO, CAL., *March 26, 1912.*

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.:

Am unalterably opposed to Lake's proposed amendment. The applications for surveyed school section which the State has used as base were presented by Lake with the full knowledge on the part of Lake that the State had used the land as base for years before. He presented the applications. The State immediately rejected the application, and, in my opinion, Lake has no equitable claim; and the legislature later repudiates Lake's claim and has done all it could to cancel the applications. See Statutes of California, 1911, page 1408. Lake's proposed amendment would de-

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feat the title of purchasers of 200,000 acres of lieu land sold to them in good faith by the State, by taking the base from under the selected land. Lake is relying solely on the technical point that the State had no right to use surveyed base. Do not think that the Federal Government should hesitate about rejecting Lake's amendment, in view of attitude of State.

W. S. KINGSBURY,
State Surveyor General.

On the same day I telegraphed to Mr. Kingsbury in regard to the Bolton amendment, which telegram was as follows:

WASHINGTON, D. C., *March 25, 1912.*

Hon. W. S. KINGSBURY,
State Surveyor General, Sacramento, Cal.:

Bolton desires to have an amendment to House bill No. 19344, as follows: "*Provided,* That the Secretary of the Interior shall not approve any exchange of lands if the land selected by the State be, at the time of approval, within the exterior limits of any land withdrawn under the provisions of an act entitled 'An act to authorize the President of the United States to make withdrawals of public lands in certain cases,' approved June 25, 1910."

Wire me your position and what you have to say about the proposed amendment.

JOHN E. RAKER, M. C.

and on March 26 received his reply, which is as follows:

SACRAMENTO, CAL., *March 26, 1912.*

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.:

The State is opposed to the amendment submitted by Bolton. By consenting to the proposed amendment the State would be waiving the rights of State applicants, if such rights vested by virtue of the selection made by the State. The State can not consent to this. Whatever rights the State applicant acquired by virtue of the selection made by the State should be saved to the applicant. In other words, no provision should be inserted which would in any way attempt to take from the State applicants rights which they acquired by virtue of the selection made by the State for them.

W. S. KINGSBURY,
State Surveyor General.

On March 25, 1912, I telegraphed the proposed amendment to Attorney General Webb, which telegram was as follows:

WASHINGTON, D. C., *March 25, 1912.*

Hon. U. S. WEBB,
Attorney General, Humboldt Bank Building, San Francisco, Cal.:

Lake submits to committee proposed amendment to House bill 19344, as follows: "*Provided, however,* That nothing in this act and no exchange made or ratified under the provisions of this act shall impair the rights or claims of any person to any lands ceded, conveyed, or waived to the United States as the basis for such exchanges where such right or claims are held adversely to such cession, conveyance, or waiver."

Wire me immediately your position upon this proposed amendment by Lake and whether or not, if adopted, it would not defeat the proposed legislation.

JOHN E. RAKER, M. C.

and on March 26, 1912, received his reply, as follows:

SACRAMENTO, CAL., *March 26, 1912.*

JOHN E. RAKER,
Member of Congress, Washington, D. C.:

The proposed amendment by Lake would undoubtedly injure some two or three hundred State applicants, involving several hundred thousand acres of land. The State of California, by its legislature, has considered matters of claims of these various applicants and has decided matter in favor of State lieu-land claimants. There is no question but that the equities are all in favor of lieu-land claimants. Lake's proposed amendment is for the purpose of aiding him in clouding the base lands on which these State lieu-land selections stand, and, if he is successful in litigation in court, to defeat these lieu-land claimants altogether by taking the bases from under their selections or to force them to settle with him. I am opposed to amendment. If he has any vested rights, as he claims he has, then bill introduced by you in Congress can not injure him. My previous letter to you explains situation more in detail. Telegram on Bolton amendment to-morrow.

U. S. WEBB,
Attorney General, California.

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On March 26, 1912, I telegraphed Bolton's amendment to Attorney General Webb, which telegram is as follows:

WASHINGTON, D. C., *March 25, 1912.*

Hon. U. S. WEBB,
Attorney General, Humboldt Bank Building, San Francisco, Cal.:

Bolton desires to have an amendment to House bill No. 19344, as follows: "*Provided*, That the Secretary of the Interior shall not approve any exchange of lands if the land selected by the State be, at the time of approval, within the exterior limits of any land withdrawn under the provisions of an act entitled 'An act to authorize the President of the United States to make withdrawals of public lands in certain cases,' approved June 25, 1910."

Wire me your position and what you have to say about the proposed amendment.

JOHN E. RAKER, M. C.

And on March 28 received his answer thereto, which is as follows:

SACRAMENTO, CAL., *March 28, 1912.*

Hon. JOHN E. RAKER,
Member of Congress, Washington, D. C.:

State, in my judgment, can not indorse Bolton amendment. Bolton fears that bill introduced by you will injure rights of his clients who are claiming as mineral claimants. The State has selected certain lands for State applicants whose applications are on file in State land office. They claim that as land was subject to selection their rights attach. If this is so, they should not be defeated by Bolton's amendment. Amendment provides that "Secretary of Interior shall not approve any exchange of lands if the land selected by the State be, at the time of approval, within the exterior limits," etc. On face of amendment this would defeat State applicants. Bill introduced by you was prepared by Department of Interior. Any amendment to bill is dangerous, as it may defeat entire object of bill. If permitted, it should be so worded that all rights State applicants require by the selections made for them by the State are carefully guarded and protected, and for such purpose such amendment must be very carefully worded and considered.

U. S. WEBB, *Attorney General.*

Will you kindly make full report on these matters, so that I may have them at least as early as Monday for the use of the committee on Tuesday? I also told the committee I would have some one from the department at that time. I would like to have a representative from the Department of the Interior who is familiar with this subject on the date set for the hearing, as the attorney general advises me that this matter has been given full attention by your department from the officers in California.

I am, yours, most truly,

JOHN E. RAKER, M. C.

DEPARTMENT OF THE INTERIOR,
Washington, April 2, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

DEAR SIR: I have your letter of March 29, 1912, advising that two proposed amendments have been presented to H. R. 19344, "A bill to authorize the Secretary of the Interior to exchange lands for school sections within Indian, military, national forest, or other reservations," the first by Mr. Lake, of Oakland, Cal., the other by Mr. Bolton, of San Francisco, Cal. You quote the proposed amendments and comments thereon addressed to you by the State surveyor general and attorney general of the State of California, and ask for report upon the matters therein involved.

The bill in question, as introduced, is largely declaratory of the act of February 28, 1891 (26 Stat., 796), amending sections 2275 and 2276 of the United States Revised Statutes, and in terms authorizes the Secretary of the Interior to make exchanges of lands with the several States for those lands granted in aid of common schools, whether surveyed or unsurveyed, which lie within the exterior limits of any Indian, military, national forest, or other reservation. In the opinion of this department the authority to make such exchanges now exists in said sections 2275 and 2276, Revised Statutes, as amended by the act of February 28, 1891, supra, and the department has uniformly so ruled since January 30, 1899. As stated in decision in the case of the State of California (28 L. D., 57–61), the legislation under which forest reservations were authorized was pending before Congress at the time when the act of February 28, 1891, supra, was under consideration and became a law only a few days later, "Congress knew when these acts were under consideration that such reservations would neces-

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sarily embrace in many instances lands which had been granted, reserved, or pledged to States and Territories for the use of public schools. It surely knew also that these reservations would frequently contain surveyed townships or portions thereof within which would be the school sections 16 and 36, which had passed to the States or were reserved or pledged to the Territories, and that these sections, entirely surrounded by Government lands and sometimes far within the boundaries of the reservation, would be of little or no benefit—as alleged to be the fact in the case at bar—to the States or Territories while the reservations exist."

The conclusions was therefore reached that where a forest reservation includes within its exterior limits a school section surveyed prior to the establishment of the reservation the State, under the authority of the first proviso to section 2275 of the Revised Statutes, amended, may be allowed to waive its right under such section and select other lands in lieu thereof. The same question was involved in the cases of Dunn et al. *v.* State of California (30 L. D., 608), the Territory of New Mexico (29 L. D., 364, 399; 34 L. D., 599), and the State of California (34 L. D., 613), and the same conclusion reached.

The language of the statute in question of itself appears conclusive upon the question involved, "and other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory, where sections 16 or 36 are mineral land, or are included within any Indian, military, or other reservation, or are otherwise disposed of by the United States: *Provided*, Where any State is entitled to said sections 16 and 36, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right under said sections." (Sec. 2275, amended.)

Therefore the report of this department, dated February 19, 1912, favoring the enactment of H. R. 19344 was made only upon the theory that if any doubt has heretofore existed as to the meaning and effect of the clause of section 2275, Revised Statutes, above quoted, it will be removed by the enactment of the measure and not because of any belief on its part that such exchanges may not be effected under existing law.

The amendment suggested by Mr. Lake is to the effect that nothing in said H. R. 19344, if enacted, "shall impair the rights or claims of any persons to any lands ceded, conveyed, or waived to the United States as a basis for such exchanges where such rights or claims are held adversely to such cession, conveyance, or waiver."

The communication addressed to you by the surveyor general of California recites that Lake has heretofore made applications to purchase surveyed school sections within reservations which had theretofore been used as the basis for indemnity selections by the State, which applications were immediately rejected. It is further stated that Lake had full knowledge of the fact that the State had used such base lands long before his application to purchase same, and that he relies solely upon the technical allegation that the State had no right to surrender school sections surveyed prior to the creation of the reservations as a basis for indemnity. The attorney general of California advises you in the same connection that Lake's proposed amendment is for the purpose of aiding him in clouding the title to the base lands upon which the State lieu selections rest, permitting him, if successful in certain litigation now pending in the courts of California, to defeat the claims of the persons who have purchased lieu-section lands from the State or force them to settle with him.

It appears that the Legislature of the State of California passed an act May 1, 1911 (Laws of California, 1911. p. 1408), providing that all applications theretofore filed with the State for sections 16 or 36 within the limits of reservations and upon which no certificates of purchase had issued shall be canceled by the surveyor general and held to be null and void.

While this department has no official connection with or information concerning the attempted purchases by Mr. Lake of such school sections, it can not concede the correctness of his contention, as disclosed by the State surveyor general, but entertains a contrary view, as indicated by its decisions hereinbefore cited. If Mr. Lake or other persons have vested rights in or to any such sections 16 or 36, H. R. 19344, if enacted, can not defeat the same, while the adoption of the amendment proposed might be construed as a recognition that valid claims do exist to such school sections heretofore presented and in some instances accepted, as a sufficient basis for school indemnity selections. The department is emphatically of the opinion that the proposed amendment should not be adopted.

The amendment proposed by Mr. Bolton is to the effect that the Secretary of the Interior "shall not approve any exchange of lands if the lands selected by the State be, at the time of approval, within the exterior limits of any land withdrawn under the provisions of an act entitled 'An act to authorize the President of the United States to make withdrawals of public lands in certain cases,' approved June 25, 1910."

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The State surveyor general and attorney general advise you that the State of California is opposed to this amendment on the ground that under it the State would waive the rights of persons who have purchased lieu-selection lands from the State. The attorney general states that—

"Bolton fears that bill introduced by you will injure rights of his clients who are claiming as mineral claimants. The State has selected certain lands for said applicants whose applications are on file in the State land office. They claim that as land was subject to selection their rights attach. If this is so, they should not be defeated by Bolton's amendment."

It appears from the records of this department that indemnity school selections were filed by the State of California upon unreserved public land in lieu of school sections within reservations, and that thereafter the lands covered by the indemnity school selections were, with adjoining tracts, withdrawn under the provisions of the act of Congress approved June 25, 1910 (36 Stat., 847), for classification in aid of legislation and for other public purposes, and that such State selections are now suspended and pending. In this connection it also appears from the records of this department that certain mineral claimants, for whom Mr. Bolton appears as counsel, are contending before this department that certain of the State selections in question should be rejected and canceled by the Secretary of the Interior because of the existing withdrawals, and the proposed amendment would seem designed to effect this end through legislation. H. R. 19344 does not direct or compel the Secretary of the Interior to approve these or other indemnity selections, but leaves him the same discretionary power that he now possesses in such cases.

Under section 2276, Revised Statutes, amended, lands selected in lieu of school sections surrendered under section 2275, Revised Statutes, are required to be "unappropriated surveyed public lands, not mineral in character." The uniform holding of the courts and repeated rulings of the department with reference to indemnity school selections and other selections requiring approval of the Secretary of the Interior are to the effect that no vested rights are secured through such selections until same have been duly approved by the Secretary of the Interior, all proceedings prior thereto amounting to but a tender of a selection.

It is thus apparent that full power and authority rest with the Secretary of the Interior under existing law, and will rest with him under H. R. 19344, if enacted, to adjudicate such selections and any claims arising in connection therewith, as well as to give due effect to any withdrawals made under the provisions of the act of June 25, 1910, supra.

The department further believes that the Secretary of the Interior should not be by act of Congress deprived of authority to approve such selections as to the lands covered thereby which are found to be nonmineral in character and otherwise subject to selection. Furthermore, selections made, but not approved, prior to the withdrawal of the selected lands under the act of June 25, 1910, are held subject to action under such withdrawal, and are not approved, certified, or patented during the existence of such withdrawal.

It is further noted that this amendment relates to lands "within the exterior limits of any land withdrawn," etc. This is specially objectionable, as a number of tracts within the exterior limits of a withdrawal may be excluded therefrom, and the amendment should therefore be limited at least to the lands withdrawn. Being of opinion, however, that no good reason exists for this amendment, I must recommend that it be not adopted.

I have examined the opinion of Judge Wellborn in the case of Hibberd *v.* Slack (84 Fed. Rep., 571), in which it was held that the act of February 28, 1891, amending sections 2275 and 2276, Revised Statutes, does not contemplate an exchange of lands between a State and the United States, but only indemnity for loss to a State because of inclusion of school lands within a forest or other reservation prior to their identification by the Government survey, and I find that a contrary rule has prevailed in this department since January 30, 1899, ex parte State of California (28 L. D., 57); Dunn et al. *v.* California (30 L. D., 608); opinion of assistant attorney general, now Justice Van Devanter (29 L. D., 364); also 29 L. D., 399; opinion of Assistant Attorney General Campbell (34 L. D., 599); ex parte State of California (34 L. D., 613).

After a careful review of the several decisions bearing upon this subject, and especially in view of the fact that the act of February 28, 1891, was a general adjustment act, I see no reason to depart from the present holding of the department on this subject.

In accordance with your request, I will be pleased to have a representative of this department appear before the Committee on the Public Lands at 10 o'clock a. m. April 2, 1912.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 567.

MINING EXPERIMENT STATION, SILVERTON, COLO.

APRIL 17, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TAYLOR of Colorado, from the Committee on Mines and Mining, submitted the following

REPORT.

[To accompany H. R. 22081.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 22081) to establish a mining experiment station at Silverton, San Juan County, Colo., to aid in the development of the mineral resources of the United States, and for other purposes, having had the same under consideration, respectfully recommend that it do pass.

This bill is a substitute for H. R. 11414, which was introduced for identically the same purpose. On the latter bill the committee held very full hearings and investigation, and its report of the hearings of December 18, 1911, describes very fully the objects of the measure and the necessity for an experiment station at Silverton.

The bill is introduced at the request of the Colorado Legislature and of the mining men of that State. The last general assembly of that State passed a joint memorial to Congress, which was duly signed by the governor and certified and transmitted by the secretary of state. The memorial is quite complete and concise, and is as follows:

[S. J. M. No. 46, by Senator Joyce.]

To the President and Congress of the United States, Washington, D. C.:

We, your memorialists, the Eighteenth General Assembly of the State of Colorado, do respectfully represent:

That the mining industry of Colorado, including the mining and the reduction to pure metal of the gold, silver, lead, copper, zinc, and tungsten bearing ores, is of vital importance to the welfare of this Commonwealth, and is of very great importance to the prosperity of our Nation at large; and that this industry furnishes employment to thousands of workmen, provides a market for the products of factory and farm, supplies gold and silver for the mints, and produces the industrial metals now indispensable to the progress of the many industries of our country;

That in mining, as in agriculture, from the very nature of the enterprise, there is and can be but very little cooperation in solving the problems of the industry; and that

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under the existing conditions a very large percentage of the metals contained in the crude ore, especially in the lead, zinc, and copper bearing ores, is lost in the course of milling or is sacrificed in attempting to ship the low-grade ore to distant smelters and in smelting that ore containing a high proportion of silica or other refractory and useless material; that the heavy percentage of loss of these metals experienced by the miners under existing methods of milling and ore dressing not only injuriously affects the mining industry itself but constitutes a substantial and irretrievable loss out of the natural resources of our Nation; and the conservation of the metal wealth of our country must be accomplished not by preventing the use of that metal but by preventing its loss and waste;

That the Department of Agriculture of the United States has fully proven the efficiency of local or field experiment stations in solving the many problems of the farming industry, and there is every reason to believe that similar good results may be achieved by the same system in solving the problems of the mining industry;

That the San Juan mining region of Colorado, covering as it does a broad expanse of mineral territory, and including almost every known combination of gold, silver, lead, copper, zinc, iron, and tungsten bearing ores, as well as vanadium, uranium, and other rare metals, and holding large deposits of low-grade refractory ores, is a most favorable place for the location of a Government mining experiment station:

Therefore we, your memorialists, do respectfully and earnestly request and petition that the National Bureau of Mines and Mining may be allowed such funds as may be necessary for that purpose and may be authorized and empowered to establish and maintain at Silverton, in the center of the San Juan mineral territory, a local mining experiment station, to be conducted under the charge of skilled chemists and metallurgists, and at which all metalliferous ores may be analyzed, and at which all known processes of ore treatment may be applied, tested, and compared, and at which new methods and processes may be developed and perfected—all to the end of improving the methods and conditions of the mining industry and saving from waste and conserving the metal resources of our country.

The Colorado Mining and Metallurgical Association has also memorialized Congress upon this subject, and sent to the committee resolutions which are as follows:

Whereas the mining industry of Colorado, including the mining and the reduction to pure metal of the gold, silver, lead, copper, zinc, and tungsten bearing ores, is of vital importance to the welfare of this Commonwealth and is of very great importance to the prosperity of our Nation at large, and this industry furnishes employment to thousands of workmen, provides a market for the products of factory and farm, supplies gold and silver for the mints, and produces the industrial metals now indispensable to the progress of the many industries of our country;

Whereas in mining, as in agriculture, from the very nature of the enterprise, there is and can be but very little cooperation in solving the problems of the industry, and under the existing conditions a very large percentage of the metals contained in the crude ore, especially in the lead, zinc, and copper bearing ores, is lost in the course of milling, or is sacrificed in attempting to ship the low-grade ore to distant smelters, and in smelting that ore containing a high proportion of silica or other refractory and useless material the heavy percentage of loss of these metals experienced by the miners under existing methods of milling and ore dressing not only injuriously affects the mining industry itself, but constitutes a substantial and irretrievable loss out of the mineral resources of our Nation, and the conservation of the metal wealth of our country must be accomplished, not by preventing the use of that metal, but by preventing its loss and waste;

Whereas the Department of Agriculture of the United States has fully proved the efficiency of local or field experimental stations in solving the many problems of the farming industry and there is every reason to believe that similar good results may be achieved by the same system in solving the problems of the mining industry;

Whereas the San Juan mining region of Colorado, covering, as it does, a broad expanse of mineral territory and including almost every known combination of gold, silver, lead, copper, zinc, iron, tungsten, and other mineral-bearing ores, as well as vanadium, uranium, and other rare metals, and holding large deposits of low-grade refractory ores, is a most favorable place for the location of a Government mining experiment station;

Whereas the Secretary of the Interior, Walter L. Fisher, has recommended an appropriation of $100,000 by the National Congress to be used in experimental metallurgical work; and

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Whereas the Hon. Ed. T. Taylor, Congressman from Colorado, has introduced a bill in the lower House of Congress calling for an appropriation of $35,000 for the construction and maintenance of an experimental metallurgical plant in Colorado: Therefore be it

Resolved, That we respectfully and earnestly request and petition that the national Bureau of Mines and Mining may be allowed such funds as may be necessary for that purpose, and may be authorized and empowered to establish and maintain at Silverton, in the center of the San Juan mineral territory, a local mining experiment station, to be conducted under the charge of skilled chemists and metallurgists and at which all metalliferous ores may be analyzed and at which all known processes of ore treatment may be applied, tested, and compared, and at which new methods and processes may be developed and perfected; all to the end of improving the methods and conditions of the mining industry and saving from waste and conserving the metal resources of our country.

The Denver Chamber of Commerce and the Colorado Chapter of the American Mining Congress have also memorialized Congress upon this subject, as follows:

Whereas increased activity of Colorado's metalliferous mining industry will correspondingly benefit all other industries and lines of business in the State and enhance the value of all real estate, urban and rural; and

Whereas metallurgy in Colorado has made great strides in recent years, rendering profitable a vast tonnage of medium and low-grade ore not previously available; and

Whereas there yet remains many millions of tons of medium and low-grade complex ore carrying five or more metals, the profitable mining and treatment of which ore involves the saving of practically all the metallic contents, a problem not yet solved, notwithstanding very large sums of private capital have been expended thereon; and

Whereas, the conservation of the mineral resources of Colorado and other States calls for new methods whereby the aforesaid classes of complex ores can be profitably treated by the saving of practically all the various metals therein instead of, as at present, involving loss; and

Whereas the agricultural experiment stations, for many years conducted by the United States Department of Agriculture, have been of untold benefit to the agricultural industry in particular and to the Nation at large; and

Whereas metallurgical experiment stations, under the management of the United States Bureau of Mines, will be of untold benefit to the metalliferous mining industry in particular and to the Nation at large; and

Whereas in view of the importance of the subject to Colorado it is most desirable that the Colorado Chapter of the American Mining Congress should have the heartiest cooperation and support of the Denver Chamber of Commerce and all other commercial organizations of Colorado in securing metallurgical experiment stations in Colorado:

Resolved, That this meeting of members of the Colorado Chapter of the American Mining Congress, the Denver Chamber of Commerce, and others, indorses the action of the American Mining Congress as embodied in the resolution adopted at the annual session of the Congress held at Chicago in October last, calling upon the United States Congress for the establishment of metallurgical experiment stations.

Resolved further, That this meeting pledges itself to support the officers and directors of the American Mining Congress in their efforts to secure an adequate appropriation by the United States Congress for the establishment of such metallurgical experiment stations.

The American Mining Congress, which is composed of the most able and representative mining men of the West, at its recent annual meeting in the city of Chicago unanimously passed the following resolution:

Whereas the development of processes of ore treatment capable of handling with profit the vast low-grade deposits and mine dumps of our mining districts is of the greatest importance to the mining industry and to all related industries:

Be it resolved, That it be the sense of the American Mining Congress that the Congress of the United States be, and is hereby, memorialized to provide for the establishment, under the direction of the Bureau of Mines, of a metallurgical experiment ore-testing station or stations for the purpose of devising methods for the extraction of metals from low-grade ores and appropriate sufficient funds for such purpose.

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Resolved further, That the officers of the American Mining Congress draft a suitable bill providing for the proper carrying out of this resolution, and that copies of the bill and of this resolution be forwarded to the President of the United States and each Senator and Representative; and that the officers of the American Mining Congress use all honorable means to the end that such a bill may become a law, in view of the increasing importance and complexity of the mining and metallurgical industries, the deplorable waste in mining under present methods, and the great need of trained men to aid in improving these conditions and in developing greater safety and efficiency.

Be it resolved, That the American Mining Congress, now in session at Chicago, urges the Congress of the United States at Washington to provide for aid and cooperation in the maintenance of mining schools in the several States in a manner analogous to that which has been done in behalf of agriculture.

Be it resolved, That the members of the American Mining Congress and the friends of the mining industry throughout the country are hereby urged to cooperate in securing the proper legislation necessary to carry above purpose into effect.

There are many other organizations of business men throughout the West that are and have for some years past been very urgently appealing to Congress for relief in the manner provided by this bill. It should be remembered that while the National Bureau of Mines is doing a splendid work in its limited field and in a limited way, yet its energies are thus far practically entirely devoted to coal-mining industries. There has been no recognition thus far of the metalliferous mining industries of the West, and it is believed that that industry is entitled to consideration by the Government.

This bill was referred to the Department of the Interior for consideration, and the report of the Secretary of the Interior thereon is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 1, 1912.

Hon. MARTIN D. FOSTER,
Chairman Committee on Mines and Mining,
House of Representatives.

DEAR SIR: Replying to your letter of March 21, asking for my opinion on House bills 22080, 22081, and 22088, relative to the establishment of mining experiment stations in the States of California, Colorado, and Utah:

The purpose of these bills is to provide for "inquiries and scientific investigations concerning the mining, preparation, treatment, and utilization of ores and other mineral substances, with a view to improving health conditions, increasing safety, efficiency, economic development, and the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries, and as will facilitate the proper and efficient development of the resources of the public domain."

This purpose and the main features of these bills meet with my approval.

Such investigations will be helpful in the development of mining on the public lands of each of the States, both within and without the national forest reserves; and the necessary expenditures for conducting these investigations will be justified more than under ordinary conditions, for the reason that in these States the Government is itself largely interested in any and all investigations looking to the proper development of the mining and metallurgical industries.

I believe, however, that in each of these bills, instead of locating specifically in each State just where the experiment station is to be established, it would be wiser to leave the question of specific location to the department, so that the investigations might be conducted from time to time at whatever point there proved to be most need of investigations and where the investigations might be carried on under the most favorable conditions. Indeed, a movable location for each station might enable the department to carry out the purposes of these bills with greater economy and efficiency than could be done under any other plan.

Under the provisions of these bills there can be no possible conflict of interests between the investigations for which they provide and the work of private mining and metallurgical engineers and chemists.

Very respectfully, WALTER L. FISHER, *Secretary.*

The report of the Secretary, as will be observed from the above, is favorable. There is a suggestion that it would be wiser to leave the

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question of the specific location of the station to the Department of the Interior, rather than fixing it at any particular place. The reason your committee has not followed that suggestion is because it is believed that when the entire State of Colorado, acting officially through its legislature, has specifically designated a certain place, which is approved by various mining organizations and mining men, the judgment and wishes of the State should be considered in that respect.

It was fully shown at the hearings that the city of Silverton is in the center of what is known as the San Juan country, and it is surrounded by a mining region and a broad expanse of 3,000 square miles of mineral territory that has produced a very large amount of ore and a great amount of wealth to this country; and they say that in the immediate vicinity of that mining town there is practically every known combination of gold, silver, lead, copper, zinc, iron, tungsten, and other mineral-bearing ores, and that the most of it is what is known as low-grade refractory ores—that is, ore which is difficult to treat. There are very large deposits and a great variety of it there, and the mining interests of the State have felt that there ought to be an experimental mining station placed there, in charge of skilled chemists and metallurgists, for the purpose of not only analyzing and testing those ores, but to devise, if possible, new means and processes of treatment—means and methods of aiding the mining industry and saving from waste and conserving the metal resources of the country and making the very valuable mineral substances in this region available for the use and general welfare of the Nation.

The State legislature and many of Colorado's mining men feel that the city of Silverton is the most advantageous place in that whole country for a local experimental station. There the ores are immediately adjacent and available; and our mining men are confident that if an experimental station can solve the problem of economically treating the various kinds of ores that are found at and near Silverton the information will cover practically the entire United States; that there are, comparatively speaking, no ores or mineral substances anywhere but what can be handled if the ores of that locality, including the southwestern part of Colorado, can be treated. As this official memorial says, there are as high as five different kinds of valuable substances in one body of rock that they take out.

On behalf of the mining industry of the West it was shown to your committee that the welfare of this Nation is very much dependent upon and affected by the conservation and economical production and treatment of the metals of the Western States; that the gold and silver, copper and lead, zinc and iron, vanadium and uranium, and other rare metals that are produced in the Rocky Mountain region are really the lifeblood of the business of this country and the basis of our prosperity. That the metalliferous mining industry is being neglected and has been neglected, and that metalliferous mining at the present time is at a comparatively low ebb. It is believed by your committee that if the Government could assist in evolving processes of handling low-grade ores—that is, ores running below $10 per ton—thousands of mines would be opened and the wealth of the world would be added to by many hundreds of millions of dollars.

It was shown that there are a large number of valuable substances that can not under the present process be handled at all, and the

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problem of the rejuvenation and continued prosperity of the mining industry depends upon the establishment of metallurgical experiment stations, at which scientific and practical work along that line can be done.

The mining men of the West feel that the Government should take an interest in and assist in finding means of treatment of the low-grade refractory ores and get them into a merchantable condition. That will require experiments, expenditures, and skilled expert knowledge of the highest class. They prefer to have experts on the ground to examine the ores and the metal formations as they exist in nature.

Silverton has a population of over 2,000 people and is a splendid mining camp, located in the center of one of the principal mining and metalliferous portions of the State and is most advantageously and suitably located for a mining experiment station.

The claims of the city of Silverton are forcibly presented by the commercial club of that city, which has also memorialized Congress in the following manner:

OFFICE OF THE SILVERTON COMMERCIAL CLUB,
Silverton, Colo., May 22, 1911.

Representative EDWARD T. TAYLOR,
Washington, D. C.

DEAR SIR: The Silverton Commercial Club, including in its membership nearly all of the business and mining men of San Juan County, would ask for your personal assistance in the matter of procuring the National Government, through its Bureau of Mining, to establish at once a mining experimental station at Silverton, Colo.

The last General Assembly of the State of Colorado adopted by unanimous vote a joint memorial to the President and Congress asking the establishment of this station. We inclose a copy of that memorial for your consideration and assistance. It is hardly necessary to call your attention to the importance of the mining industry to Colorado and the Nation at large; but we do desire to emphasize the urgent need for Government aid in solving the problems of this industry. Out of every hundred million dollars' worth of crude ore extracted from the mines in Colorado it is safe to say that from thirty to forty million dollars' worth of the metals are irretrievably lost. In the low-grade mines (which constitute the permanent mining industry) from 30 to 40 per cent of the crude lead, zinc, copper, gold, and silver is lost in the process of ore treatment and reduction. Where the timber of a country is destroyed, it may be regrown in a limited number of years; but the metals lost in the process of reduction, returning as they do to earth or river bottom, are lost to our industries for all time.

These problems can be solved only by actual experimentation in the field—at the place where the problems exist. Silverton is situated in the center of the great San Juan mineral district and is undoubtedly the best place in the West for actual tests and experimentation. All kinds and combinations of ore are to be found in abundant quantities. Electric power is cheap and abundant. The coal fields are near by to the south. The town itself, while surrounded by the mines, has every convenience of the modern city and from this point four railways extend to important mining districts; and this San Juan section more than any other part of the West has need of a scientific experimental station. It is a country by itself, broad in extent, capable of great and permanent production of metals, but holding many varieties of refractory ores which try the skill of millman and metallurgist. This place was selected in the memorial of the Colorado General Assembly not only because it most needs the help of the national bureau, but because here the broadest opportunity for successful field work is presented.

We would ask your earnest and personal assistance in procuring the establishment of this mining experimental station. It will require an appropriation by Congress, which ought to be a fund of at least $100,000 to establish and equip the station and $25,000 per year for maintenance and operation. The plant will naturally demand the services of skilled metallurgists, able to do efficient work and employed to give their whole time. And the station should not be limited to narrow bounds of experi-

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ment, but should be enabled to procure and test any process and every mechanical device that may save the metals.

And if the National Government, by means of such a limited investment, can substantially increase the saving of the precious and industrial metals, it will not only improve the condition of a great national industry but will accomplish a great conservation of the natural wealth of our country.

We would ask you to give every assistance within your power to procure the introduction and passage of a proper appropriation bill at the present session of Congress, and to prevail upon the National Mining Bureau to establish the station this year.

Very truly, yours,

THE SILVERTON COMMERCIAL CLUB,
By W. N. SEARCY, *President*.
WARREN C. PROSSER, *Secretary*.

Your committee believe that the welfare of the country demands that recognition and encouragement should be given its metalliferous mining industry and recommend the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 571.

DISPOSAL OF UNALLOTTED LAND, OMAHA INDIAN RESERVATION, NEBR.

APRIL 19, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STEPHENS, of Nebraska, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 5060.]

The Committee on Indian Affairs, to which was referred the bill (S. 5060) to provide for the disposal of the unallotted land on the Omaha Indian Reservation, in the State of Nebraska, having had the same under consideration, beg leave to recommend that the bill do pass with the following amendments:

Page 1, line 4, insert after the word "appraised" the following: "in such manner as he may direct."

Page 1, line 5, strike out the words "in manner hereinafter set forth."

Page 1, line 5, after the word "each" insert the words "or as nearly as to the Secretary may seem practicable."

Page 3, line 4, strike out after the word "act" the remainder of the line and all of line 5.

Page 3, line 7, after the word "use" insert the following:

Provided further, That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or otherwise disposed of, shall be subject for a period of twenty-five years to all of the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

Page 3, strike out all of section 3.

Page 3, line 20, strike out "Sec. 4" and insert in lieu thereof "Sec. 3."

Page 4, line 23, strike out "Sec. 5" and insert in lieu thereof "Sec. 4."

Page 5, strike out all of section 6.

Your committee submits and makes a part of this report three letters from the Department of the Interior on the subject of the proposed legislation.

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DEPARTMENT OF THE INTERIOR,
Washington, February 14, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: I have the honor to acknowledge the receipt, by your reference of February 6, 1912, for consideration and report, of a copy of Senate bill 5060, Sixty-second Congress, second session, providing for the sale of the tribal lands of the Omaha Indian Reservation in Nebraska.

This department on January 28, 1910, submitted to the Congress drafts of a bill authorizing the sale of the Omaha tribal lands, and in its letters accompanying said drafts set forth fully the facts relating thereto. See House Document No. 630, Sixty-first Congress, second session.

The Indians have expressed a desire to have 10 acres set aside for a tribal cemetery. It is respectfully recommended, therefore, that the word "seven" in section 2, line 15, page 2, be stricken out and the word "ten" be inserted in lieu thereof.

The word "one" in section 4, line 3, page 4, should be stricken out and the word "three" inserted in lieu thereof.

The act of February 18, 1909 (35 Stat. L., 628), authorized the payment of any assessments which may be made by any drainage district in the State of Nebraska on the tribal lands of the Omaha and Winnebago Indians, to protect such lands from overflow, from the tribal funds remaining to the credit of these Indians.

The estimated cost o. drainage to protect the tribal lands of the Omaha Tribe is approximately $600. The lands subject to overflow will be greatly enhanced in value by the drainage provided for in the act of February 18, 1909, supra, and it is but just that the cost of draining these tribal lands should be paid from the proceeds derived from their sale. It is believed that provision should be made in the bill for reimbursing the tribal funds for the cost of draining the lands to be sold from the proceeds of the sale. This can be done by inserting after the word "act" in section 4, line 23, page 3, the following:

"And after reimbursing the general trust fund of the tribe for any assessment paid therefrom for protecting the unallotted tribal lands from overflow."

Section 4 of the bill provides that the proceeds derived from the sale of the tribal lands shall be deposited in the Treasury of the United States to the individual credit of the unallotted children living at the date of the passage of the act, to draw interest at the rate of 5 per cent per annum, each Indian to be paid his share with accrued interest when he reaches the age of 25 years.

The department is of the opinion that authority should be given the Secretary of the Interior to expend the share of individual Indians prior to the time they reach the age of 25 years when, in his opinion, it will be to their advantage. It is not deemed advisable to have money deposited in the Treasury to the credit of these individual Indians which can not be used to provide for their education or to relieve sickness and distress.

It is respectfully recommended, therefore, that section 4 be further amended by striking out all that part thereof after the word "be" in line 6, page 4, and inserting in lieu thereof the following:

"Expended for the benefit of said Indians when and in such manner as in the opinion of the Secretary of the Interior shall be to their best interests, and pending such expenditure by the said Secretary the sums due the respective Indians shall be placed to the credit of said Indians in the Treasury of the United States, and shall bear interest at the rate of five per centum per annum, but in the event of the death of any such Indian while there remains in the Treasury to his credit any part of the sum so deposited, the said sum shall be paid at once to his heirs, who shall be determined by the Secretary of the Interior in accordance with the laws of descent in force in the State of Nebraska, and the action of the Secretary of the Interior in determining the legal heirs of any deceased Indian, as provided herein, shall in all respects be conclusive and final."

If amended as suggested herein, this department will be glad to see the enactment of Senate bill 5060, Sixty-second Congress, second session.

Respectfully,

SAMUEL ADAMS,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, February 8, 1909.

SIR: By direction of the President, I inclose a draft of a bill the enactment of which into law at this session of Congress I consider extremely urgent, for reasons which I shall set out. The proposed measure provides for the disposal of all the unallotted land on the Omaha Indian Reservation in the State of Nebraska.

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Allotments on the Omaha Indian Reservation were originally made in accordance with the provisions of the act of August 7, 1882 (22 Stat. L., 341). Allotments under this act to 954 members of the tribe were approved by the department on July 11, 1884, and the trust period for such allotments will expire on July 10, 1909.

Section 8 of the same act provided that the residue of lands, after all allotments had been made "* * * shall be patented to the said Omaha Tribe of Indians, which patent shall be of the legal effect and declare that the United States does and will hold the land thus patented for the period of twenty-five years in trust for the sole use and benefit of the said Omaha Tribe of Indians, and that at the expiration of said period the United States will convey the same by patent to said Omaha Tribe of Indians in fee discharged of said trust and free of all charge or encumbrance whatsoever."

For reasons which the present administration of the department and of the Indian Office is unable to supply, no patent to the tribal lands was issued in accordance with the direction of the section quoted. It is easy to conceive, however, that a court of law might hold that the act was mandatory, and required the issuance of a trust patent for the tribal lands, and that, since this ought to have been done, a constructive trust period went into effect with regard to the tribal lands from the date of the completion of allotments in severalty on July 11, 1884, and would therefore expire on July 10, 1909. In view of this possible and very probable interpretation of the act of August 7, 1882, that a constructive trust period is now in effect, which will expire on July 10, 1909, it is manifest:

1. That if no provision be made to meet the condition it needs only conflicting interests in the disposition of the unallotted lands to bring about much expensive and vexatious litigation and serious embarrassment to the administration of the affairs of these Indians.

2. That any legislation designed to meet the emergency, if such exists, must be passed at this session of Congress in order to be of any avail.

There are conflicting interests in the disposition of this unallotted land, which arose from the following conditions:

Section 8 of the act of August 7, 1882, supra, provided that, from the residue of lands to be patented to the tribe in common, allotments should be made and patented to each Omaha child born prior to the expiration of the time during which it was provided that the tribal lands should be held in trust (i. e., prior to July 10, 1909, on the constructive hypothesis herein outlined), the individual patents to override the patent to the tribe in common, and the lands so patented to the children to be segregated from the tribal lands. It is worthy of note also that the trust period on the proposed allotments to children was to expire, under the terms of this section, simultaneously with the expiration of the trust period on the tribal lands.

No allotments to children have been made under this section. The only allotments made from the residue of lands after the allotments of 1884 were made under the terms of the act of March 3, 1893 (27 Stat. L., 612, 630), which was amendatory in that it gave larger areas to children allotted under the former act, and provided for allotments to all women and children in being on March 3, 1893. The later act, however, did not repeal the former, so that there can be no doubt but that the children born since March 3, 1893, have been born into a right to an allotment of 40 acres each under the provision of the act of August 7, 1882, supra, so long as any is left of the tribal land.

The difficulty in carrying out the intent of this act at this time arises from the fact that there are now living 520 children of the tribe who, having been born since March 3, 1893, have received no allotments, and there is only about 4,500 acres of unallotted land, so that only 112 allotments of 40 acres each could be made to the 112 eldest unallotted children, leaving 408 children for whom no provision would be made. The prospect of such a disposition has aroused intense opposition among the parents of the 408 children who would thus receive nothing. Moreover, the unallotted land varies greatly in character and value, so that it was impossible equitably to divide it.

To pass a measure providing for the equal distribution of the tribal lands among all the living children would be open to serious objection, because this would give each child only about 8.6 acres, of unequal value—a quantity too small to be either cultivated or leased to advantage.

It would seem wiser to provide legislation designed to carry out the spirit of the act of August 7, 1882, the neglect to comply with the letter of it being a matter not susceptible of explanation at this time. The value in the open market of the tribal lands is variously estimated at $100,000 to $200,000. At the lower figure the sale of the lands and an equal distribution of the funds so arising among all the children would give each child about $190. The oldest child who could become a beneficiary under such a plan would be about 15 years of age when title passed to him for his share of $190. If this sum were placed to his credit in the Treasury at 5 per cent interest

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per annum until he was 25 years of age, the amount then due him would be $285. The younger the child at the date of the passage and approval of such act the greater the sum which would be his on reaching the age of 25 years.

Such is the purport of the accompanying bill, which is believed not only to furnish the best solution of the problem, but to meet the wishes of the majority of the tribe as expressed in open council, and in communications to the Indian Office. The bill contains certain reservations essential to the welfare of the tribe; provides for an Indian town near the present agency, which is a cherished dream of the Omahas; and gives the Nebraska Historical Society the old Presbyterian mission, which it is their desire to preserve as a landmark; and I strongly urge its enactment into law, and again call your attention to the fact that it is necessary that such an enactment be had at this session if at all.

Very respectfully, JAMES RUDOLPH GARFIELD,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

AN ACT To provide for the disposal of the unallotted land on the Omaha Indian Reservation in the State of Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized to cause to be surveyed, if necessary, and appraised, in manner hereinafter set forth, in tracts of forty acres each; and, after such survey and appraisement, to sell and convey, in quantities not to exceed one hundred and sixty acres to any one purchaser, all the unallotted lands on the Omaha Indian Reservation in the State of Nebraska, except such tracts as are hereinafter specifically reserved: *Provided*, That the said land shall be sold to the highest bidder under such regulations as the Secretary of the Interior may prescribe, but no part of said land shall be sold at less than the appraised value thereof: *And provided further*, That prior to such appraisement and sale, any member of the Omaha Tribe whose allotment is subject to erosion by the Missouri River shall be permitted to relinquish such allotment and select lieu lands of equal area from the unallotted lands, the lands so relinquished to become a part of the unallotted tribal lands and subject to appraisement and sale under the terms of this act.

SEC. 2. That the Secretary of the Interior is hereby directed to reserve from sale under the terms of this act the following tracts of land, for the purposes designated: Forty-nine acres of the land now used for agency purposes, to be reserved for agency and school purposes for so long as the need therefor exists; seven acres, to be selected by the tribe, for use as a tribal cemetery; ten acres of the land now reserved for the use of the Presbyterian Church, to be selected by the officials of said church, for the use of the church so long as needed for religious or educational purposes; two acres of the land on which is standing what is known as the old Presbyterian mission building, and the Secretary of the Interior is hereby authorized to cause a patent in fee simple to issue therefor in the name of the State Historical Society of Nebraska: *Provided*, That, of the land now reserved for agency purposes, the Secretary of the Interior is directed to reserve and set aside for town-site purposes one humdred and sixty-four acres, other than the forty-nine acres hereinbefore reserved, and shall cause the same to be surveyed and platted into town lots, streets, alleys, and parks, the lots to be appraised and sold under the terms of this act, but no bid shall be received therefor except from members of the tribe, and the streets, alleys, and parks are hereby dedicated to the public use.

SEC. 3. That the appraisement directed by this act shall be made by three competent commissioners to be appointed by the Secretary of the Interior, after the completion of the surveys herein directed and authorized, one of whom shall be a resident citizen of the State of Nebraska, one an employee of the Indian Bureau, and one holding tribal relations with the Omaha Indians, said commission to be paid a salary of not to exceed five dollars per day each while actually employed in the inspection and appraisal of said land, such appraisement to be completed within such a period after the date of the organization of said commission as the Secretary of the Interior shall designate.

SEC. 4. That the proceeds of such sale, after paying all the expenses incident to and necessary for carrying out the provisions of this act, shall be divided pro rata among the children of the Omaha Tribe living on the date of the passage and approval of this act who have not received allotments of land under the acts of August seventh, eighteen hundred and eighty-two (Twenty-second United States Statutes at Large, page one hundred and forty-one), and March third, eighteen hundred and ninety-three (Twenty-third United States Statutes at Large, page six hundred and thirty),

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and shall be placed to the credit of said Indians in the Treasury of the United States, and shall bear interest at the rate of five per cent per annum, until such time as the individual Indians shall have reached the age of twenty-five years, when the share to the credit of each Indian, with accrued interest, shall be paid to him upon application therefor through the Secretary of the Interior; but in the event of the death of such Indian prior to reaching the age of twenty-five years, his share shall be paid at once to his heirs under the laws of descent in force in the State of Nebraska.

SEC. 5. That for the purpose of carrying out the provisions of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of three thousand dollars, or so much thereof as may be necessary, to be reimbursable out of the funds arising from the sale of said lands.

SEC. 6. All acts and parts of acts not consistent with the provisions of this act are hereby repealed.

DEPARTMENT OF THE INTERIOR,
Washington, April 18, 1912.

Hon. DAN V. STEPHENS,
House of Representatives.

SIR: The department has the honor to acknowledge the receipt of your letter of April 2, 1912, with its inclosure, regarding a change in the provisions of Senate bill 5060, for the sale of unallotted lands of the Omaha Indians, so as to authorize allotments in cases where Indians were entitled but failed to receive lands, mentioning the specific case of Alice Springer, which was brought to your attention by Mr. Sloan.

The right of the heirs of Alice Springer, deceased, to select an allotment on the Omaha Reservation was denied by the Indian Office and on appeal the department affirmed the action of that office. Copies of the correspondence regarding this case are inclosed herewith for your information.

The Omaha Indians in council expressed the wish that the remaining tribal land be disposed of for the benefit of the unallotted living children, and the department has not intended to make provision for any deceased members of the tribe who had the status of Alice Springer.

Attention is invited to the fact that the bill you transmitted, introduced in the Senate February 5, 1912, was amended upon the recommendation of this department, and that the amended bill passed the Senate March 21, 1912. The department suggests, however, that the bill be further amended by inserting the following after the word "use," in line 7, page 3:

"*Provided further*, That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site pusposes, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country."

It has been found that like provisions inserted in other laws have proved of benefit to the Indians and of great assistance to this department in enforcing the laws prohibiting the sale of intoxicants to Indians. The Supreme Court in the case of Dick *v.* United States (208 U. S., 340), has upheld the validity of such a law.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 573.

SALE OF TIMBER LANDS BELONGING TO CHOCTAW AND CHICKASAW INDIANS IN OKLAHOMA.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CARTER, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 4753.]

The Committee on Indian Affairs, to whom was referred the bill (S. 4753) to amend an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes, in the Indian Territory, and for other purposes," approved April 26, 1906, having duly considered the same, reports the bill without amendment and recommends that it do pass.

The committee adopts the report of the Senate Committee on Indian Affairs on this bill, which is as follows:

[Senate Report No. 378, Sixty-second Congress, second session.]

The Committee on Indian Affairs, to whom was referred S. 4753, to amend an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906 (34 Stat. L., p. 137), after giving the same careful consideration, report thereon with a recommendation that it pass without amendment.

The reasons for amending said act are fully set out in the following letter from the First Assistant Secretary of the Interior, to wit:

DEPARTMENT OF THE INTERIOR,
Washington, January 18, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: By direction of the President I have the honor to invite your attention to a draft of proposed legislation for the sale of timber lands belonging to the Choctaw and Chickasaw Indians of Oklahoma.

By section 7 of the act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906 (34 Stat. L., 137), the Secretary of the Interior was directed to reserve from allotment and sale certain described lands in the Choctaw Nation.

This land was reserved, the timber and land appraised, and the same offered for sale under date of September 19, 1907. The total amount of land reserved was about 10,800 acres, and the pine upon these lands was estimated as being about 48,000,000

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feet board measure, with a value of $191,824. The total appraised value of the land, hard wood, and pine was $220,858.37. It was offered as a whole or in 70 separate tracts. No bids were received under this advertisement.

Subsequently a cyclone passed over a portion of the reserved land, blowing down a large amount of timber. The blown-down timber was sold to prevent waste, about 4,000,000 feet being thus removed.

In the spring of 1910 the pine timber was again estimated and appraised. The amount of pine timber under this estimate was given as 43,178,000 feet, with a value of $216,115. The land and hard wood was not reappraised.

On April 25, 1910, the department offered the timber and land for sale. The 70 tracts of the first advertisement were arranged into three groups and offered in these groups. Bids were received from three parties, but the total bid for the three tracts was much lower than the appraised value. All bids were rejected.

These timberlands were again offered for sale under date of July 25, 1910, with certain changes in the manner of sale. A single bid was received. This bid covered all three tracts, but was for $75,000 less than the combined appraised value of the land and hard wood as made in 1907 and that of the pine as made in 1910.

On June 29, 1911, the department approved regulations offering these lands for sale at public action. Under these regulations bids could be offered upon each section or portion of section reserved, upon tracts of about three sections each, as grouped in the advertisement, or upon the entire area reserved. At the auction held at Bokhoma October 31, 1911, no bid was received. Subsequently one party made a private offer of $150,000 for the entire tract. This offer was considered inadequate and was not accepted.

The act of April 26, 1906, supra, requires that the timberland be sold for cash. This requires a purchaser to make a large cash payment a long period in advance of the time when he can realize a return through the manufacture of the timber into lumber.

It is believed that if the law were changed to permit the sale on deferred payments, so that the purchaser might obtain a return from a part of the timber through manufacture and sale prior to the making of full payment for the same, a more satisfactory price could be received for the timberland.

The department would be pleased to see the inclosed draft of legislation enacted into law.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

In short, the act of April 26, 1906, provides that these lands must be sold for cash. The purpose of this bill is simply to authorize the Secretary of the Interior to make the sales upon such terms as he deems most beneficial to the Indians who own the property.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 575.

DEPARTMENT OF LABOR.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILSON of Pennsylvania, from the Committee on Labor, submitted the following

REPORT.

[To accompany H. R. 22913.]

The Committee on Labor, to which was referred the bill (H. R. 22913) to create a Department of Labor, submits the following report and recommends that said bill do pass with the following amendment:

On page 3, line 21, after the word "least," strike out the word "one" and insert the word "once."

This bill proposes to establish a Department of Labor and to change the present Department of Commerce and Labor to a Department of Commerce. It provides a Secretary of Labor, who shall be a member of the President's Cabinet; three Assistant Secretaries, a Solicitor of the Department of Justice for the Department of Labor, a chief clerk, a disbursing clerk, and such other clerks, inspectors, and special agents as may be provided for by Congress. It transfers the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration, the Immigration Service at large, the Bureau of Labor, and the Commissioner of Labor from the Department of Commerce and Labor to the Department of Labor. It changes the title of the Bureau of Labor to the Bureau of Labor Statistics, and the Commissioner of Labor to the Commissioner of Labor Statistics, and transfers the duties of the Commissioner of Labor to the Commissioner of Labor Statistics, including those imposed by the Erdman Act. It authorizes the collection and publication of statistics relative to the conditions of labor and the products and distribution of the products of the same, and authorizes the Secretary of Labor to call upon other departments of the Government for such statistical data as they may have which would be valuable for that purpose. It authorizes the Secretary of Labor to act as mediator and to appoint commissioners of conciliation in labor disputes, thereby giving the influence of the Government toward industrial peace. It

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directs the Secretary of Labor to investigate and report to Congress a plan of coordination of the activities of his office with the activities of the present bureaus, commissions, and departments, in order to harmonize and unify such activities, with a view to further legislation to further define the duties and powers of the Department of Labor.

The following extracts from the report of the Committee on Interstate and Foreign Commerce, accompanying the bill creating a Department of Commerce and Labor, furnish interesting historical data on the subject:

The only provisions in the Constitution in regard to executive departments of the Government are found in section 2 of article 2, wherein it is provided that the President "may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices;" and, again, that "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments."

Just what constitutes an "executive department" or the "head of a department" has not been fully determined. It is quite certain, however, that the head of such department shall not necessarily be called into the President's Cabinet in order to constitute the department an executive department within the meaning of the Constitution.

The President's Cabinet is extraconstitutional. It is not provided for by law, but exists voluntarily and by force of custom. It has become the custom, however, that when a department is created and the head thereof is denominated "secretary" or "general" to consider him as a Cabinet officer. There is, of course, nothing to prevent the President from requesting the head of any other department to attend the meetings of what is called the Cabinet. But the force of custom as it now exists is very strong. No departure from it is likely to soon occur.

The meetings of the Cabinet necessarily exercise a tremendous influence upon the policies of the Executive. A department which is represented in the Cabinet is thereby given a great advantage.

The creation of a new executive department, the head of which shall be a member of the Cabinet, is no light matter. Only two additions to the Cabinet have been created by Congress in over a century. The Departments of State, War, Treasury, and Navy, and the Attorney General and Postmaster General were established during the eighteenth century and during the first 10 years of the existence of our Government under the present Constitution.

EXISTING EXECUTIVE DEPARTMENTS.

The State Department was the first executive department created and was established under the title of the Department of Foreign Affairs by act of July 27, 1789, the title of the department being changed to Department of State by act of September 15, 1789.

The Department of War was created by act of August 7, 1789.

The Department of the Treasury was created by act of September 2, 1789.

A salary for the Attorney General of the United States was provided for in the act of September 23, 1789, and the office of Attorney General was created in the last section of the act of September 24, 1789. The Attorney General has always been one of the President's family of advisers known as a Cabinet officer, although his office was not in terms referred to as an executive office until the act of June 22, 1870, establishing the Department of Justice.

A temporary Postmaster General was provided for by the act of September 22, 1789, and by the act of May 8, 1794, a general post office was established at the seat of the Government with a Postmaster General in charge. The Postmaster General became undoubtedly the head of one of the executive departments of the Government, but the law did not in terms so refer to him until the act of June 8, 1872, establishing an executive department to be known as the Post Office Department.

The Department of the Navy was created by act of April 30, 1798.

The six departments referred to above were all established practically at the commencement of the Government under the Constitution.

There have been many requests for the creation of new executive departments of the Government in behalf of various interests since that time, but Congress has been very conservative about granting such requests.

By the act of March 3, 1849, the Department of the Interior was established, but the name given to it in the title of the original act was a "Home Department." The

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Department of the Interior was intended as a "home" department. It was to have charge of those internal affairs which needed representation in the President's Cabinet. The Interior Department is one of the greatest departments of the Government in extent of its varied interests and the number of its employees. Many of its different bureaus or branches, however, have no connection or relationship to each other, and it is not a homogeneous department.

The Department of Agriculture was established by act of May 15, 1862, and placed in charge of a Commissioner of Agriculture, who was not, however, considered as a Cabinet officer.

By act of February 9, 1889, it was provided that the Department of Agriculture should have a Secretary of Agriculture at its head, and the Secretary of Agriculture is considered a member of the Cabinet.

The Commissioner of Agriculture, within the meaning of the Constitution, was as much the head of a department as the Secretary of Agriculture. He might as readily have been called to attend the meetings of the Cabinet; but it never has been the policy of the President to unduly extend the size of his Cabinet. To add greatly to its numbers would destroy its efficiency. It never has been the policy, therefore, of Congress to easily create a new head of an executive department who, under the custom, would be entitled to the courtesy of a seat in the Cabinet.

It is quite apparent from a casual examination that a proper rearrangement of the various divisions and branches of the Government service might in some cases be of considerable benefit. It is also apparent that those things which grow can never have the same degree of uniformity and regularity as do those things which are made to order.

The study which your committee has made of this subject, however, convinces us that a rearrangement and reclassification of the different bureaus and divisions of the public service devoted to scientific pursuit might well be made with great resulting benefit.

The original six executive departments were each created because of a necessity and propriety which was apparent. The Interior Department was created because at the time it seemed very desirable to relieve some of the other departments of what were to them excrescences, and also create an official adviser to the President who would give particular attention to the growth and development of our country internally.

The Department of Agriculture was established from a sense of eminent fitness, and its work has more than justified the most ardent prophecies of those who urged its creation.

The same may be said of all the scientific divisions in the different departments. The Weather Bureau, for instance, is the foremost meteorological institution in the world. The Geological Survey is not equaled in any other country. The Coast and Geodetic Survey is the envy of all other nations. The Naval Observatory and the Nautical Almanac direct the course of the shipping of the world. Equal praise might well be given to many other scientific branches of the Government.

It is very evident, however, that some of the statistical or other scientific bureaus of the Government have no special connection with the general purpose of the departments in which they happen to be respectively located.

For many years there has been a widespread desire among the people for the establishment of a Department of Labor. The great development of industrial life since the introduction of machinery and the large number of wage workers frequently employed by a single individual or corporation has made the labor question one of the greatest problems of our times. By the act of Congress of June 27, 1884, the Bureau of Labor was established and placed in the Department of the Interior. The act provided for the appointment of a Commissioner of Labor. On June 13, 1888, Congress created a Department of Labor, but it did not have the rating or dignity of an executive department and the Commissioner of Labor was not a member of the President's Cabinet. At that time the Bureau of Labor in the Department of the Interior was abolished and the Department of Labor made independent of it and its duties enlarged so as to take in a larger scope of industrial conditions. When the Department of Commerce and Labor was created, the Department of Labor was merged with it as a bureau.

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In addition to the benefits which would come to labor through having the head of the Department of Labor as a member of the President's Cabinet dealing with labor problems in a manner sympathetic to labor, the power which is given to the Secretary of Labor to act as a mediator in labor disputes and to appoint commissioners of conciliation in such cases will be of immense value in promoting industrial peace. The friendly offices of some one who has the confidence of both sides to a controversy, when used intelligently and at the proper moment, can do more to bring the contending parties together upon terms satisfactory to all concerned than any other policy that can be pursued.

Mr. Mann in submitting the report from the Committee on Interstate and Foreign Commerce on the bill creating a Department of Commerce and Labor, says:

> One of the reasons which has been urged why the Labor Department should not be included in the new department is that there ought to be created a secretary of the Labor Department, with a seat in the Cabinet. Whether this is likely to be done in view of the conservative action in creating new Cabinet officers in the past, it is not for your committee to judge at this time. But it will be as easy to create a secretary of labor if the Department of Labor is, for the present, included in the new department as it would be if the Labor Department is left out by itself. In fact, it seems much more likely that the Labor Department will grow in the scope of its work, and hence be more likely to warrant the creation of a new Cabinet officer to represent labor interests if the proposed action is taken than would be the case if the Labor Department is left as it now is.

The Democratic platform of 1908 declares, "That we pledge the Democratic Party to the enactment of a law creating a Department of Labor, represented by a Secretary in the President's Cabinet."

The organized wage workers of the country are unanimous in support of this measure, and the views of many of them have been conveyed to your committee either in person or by letter.

Among those thus expressing themselves are Samuel Gompers, president of the American Federation of Labor; Frank Morrison, secretary, and Arthur E. Holder, legislative committeeman of American Federation of Labor; Frank Littlefair, secretary of the Yonkers (N. Y.) Federation of Labor; D. Mitthauer, president, and Peter F. Markey, secretary, Richmond Borough Central Trades and Labor Council, Stapleton, Staten Island, N. Y.; William Smith, secretary Central Labor Union of Lancaster and Depew, N. Y.; Robert Peel, secretary of Bronx Labor Council; Andrew Smith, secretary Federal Labor Union, Niagara Falls, N. Y.; P. J. Brady, secretary Allied Printing Trades Council of Greater New York; Frank Gehring, president Lithographers' International Protective and Beneficial Association of the United States and Canada; H. A. Martin, secretary District Assembly, Knights of Labor, Washington, D. C.; W. W. Beattie, president Commercial Telegraphers' Union of America; T. D. Fennessey, International Typographical Union, Los Angeles, Cal.; J. C. Skemp, G. S. T., Brotherhood of Painters, Decorators and Paperhangers of North America, Lafayette, Ind.; Frank Duffy, general secretary United Brotherhood of Carpenters and Joiners of America, Indianapolis, Ind.; Sam De Nedrey, secretary Central Labor Union, Washington, D. C.; J. L. Feeney, president Bookbinders' Union No. 4, Washington, D. C.; W. E. Kennedy, the Trades Unionist, Washington, D. C.; Charles Silverman, corresponding secretary, Navy Yard Clerks and Draughtsmen's Association, Brooklyn, N. Y.; B. A.

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Larger, general secretary United Garment Workers of America; Charles F. Bailey, general secretary-treasurer Laundry Workers' International Union; Central Labor Union of Hudson, N. Y.; Ernest Willard, general secretary-treasurer International Hod Carriers and Building Laborers' Union of America; John J. Joyce, International Longshoremen's Association, Buffalo, N. Y.; William Tompkins, secretary Central Federation of Labor, Cohoes, N. Y.; Otto Nichols, secretary Central Labor Union, Brooklyn, N. Y.; J. T. McLaughlin, secretary Central Labor Union, Batavia, N. Y.; E. H. Chapman, secretary Trade and Labor Assembly, Port Chester, N. Y.; John J. Dillon, secretary Central Federation of Labor, Albany, N. Y.

A bill to create a Department of Labor has been pending before the Committee on Labor for a number of years and in all that time no one has appeared in opposition to the measure.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 576.

DAM ACROSS CHOCTAWHATCHEE RIVER, DALE COUNTY, ALA.

APRIL 20, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 22006.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22006) authorizing the Choctawhatchee River Light & Power Co. to erect a dam across the Choctawhatchee River in Dale County, Ala., having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 5, 1912.

Respectfully returned to the Secretary of War.

By an act approved April 5, 1906, the consent of Congress was given to the construction, by a corporation known as the Choctawhatchee Power Co., of a dam across Choctawhatchee River near Newton, in Dale County, Ala. This act has apparently expired by limitation, the dam not having been built within the time fixed therein.

The accompanying bill, H. R. 22006, Sixty-second Congress, second session, is assumed to be intended to revive the privilege and confer it upon a corporation designated as the Choctawhatchee River Light & Power Co. The bill provides that the rights granted shall be exercised subject to the provisions of the general dam act of June 23, 1910, and it is therefore believed that the interests of navigation are amply safeguarded. So far as those interests are concerned, I see no objection to the passage of the bill by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 10, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, concurring in the views of the Chief of Engineers in preceding indorsement.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. } REPORT No. 577.

ASHTABULA, OHIO, SUBPORT OF ENTRY.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LONGWORTH, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany S. 2228.]

The Committee on Ways and Means, to whom was referred Senate bill 2228, having had the same under consideration, report it back to the House without amendment, and recommend that the bill do pass.

The report of the Senate Committee on Commerce is hereunto attached.

[Senate Report No. 169, Sixty-second Congress, second session.]

The Committee on Commerce, to whom was referred the bill (S. 2228) to establish Ashtabula, Ohio, a subport of entry in the customs collection district of Cuyahoga, Ohio, and for other purposes, having considered the same, report thereon with a recommendation that it pass without amendment.

The bill has the approval of the Department of Commerce and Labor and the Treasury Department, as will appear by the following letters:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, May 22, 1911.

SIR: The department has received your letter of the 12th instant, inclosing Senate bill 2228, a bill to establish Ashtabula, Ohio, a subport of entry in the customs collection district of Cuyahoga, Ohio, and for other purposes.

Complying with your request that I furnish the committee with such suggestions as I may deem proper touching the merits of the bill and the propriety of its passage, I have to state:

A considerable portion of the ore designed for Pittsburgh and of the coal shipped from Pittsburgh finds its natural inlet or outlet at present at Ashtabula. It will therefore be a material convenience to commerce to allow vessels to enter and clear there rather than through Cleveland or the subport of Conneaut. The department therefore favors the establishment of the subport of entry.

The question of the immediate transportation of dutiable merchandise without appraisement is for the consideration of the Treasury Department, to which it is understood the bill has also been referred.

Respectfully,

BENJ. S. CABLE,
Acting Secretary.

Hon. WILLIAM P. FRYE,
Chairman Committee on Commerce, United States Senate.

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TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, December 11, 1911.

The CHAIRMAN COMMITTEE ON COMMERCE,
United States Senate.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, transmitting a copy of Senate bill 2228, to establish Ashtabula, Ohio, a subport of entry in the customs collection district of Cuyahoga, Ohio, and for other purposes.

The said bill is identical with the bill (H. R. 30903) introduced in the third session of the Sixty-first Congress, the enactment of which was recommended in this department's letter dated May 6, 1911, a copy of which is herewith inclosed.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, May 6, 1911.

The CHAIRMAN COMMITTEE ON WAYS AND MEANS,
House of Representatives.

SIR: I have the honor to refer to your letter of February 21 last, requesting a report upon a bill (H. R. 30903) to establish Ashtabula, Ohio, a subport of entry in the customs collection district of Cuyahoga, and to extend to such subport the privileges of the first section of the immediate transportation act of June 10, 1880.

It appears upon investigation that Ashtabula is an important ore-receiving port, located on Lake Erie, in the customs collection district of Cuyahoga, about 60 miles east of Cleveland, and that a car ferry is operated between that place and Port Burwell, Canada, by the Pennsylvania-Ontario Transportation Co., which makes about 10 round trips weekly, transferring cars from the Pennsylvania Railway in this country to the Canadian Pacific Railway in Canada, and that the operations of said ferry are considerably hampered because of the fact that Ashtabula is not a subport of entry having the privileges of the first section of said act of June 10, 1880, and merchandise can not therefore be brought into that port from Canada and forwarded in bond to its destination.

There are two customs officers stationed at Ashtabula during the navigation season chiefly for the purpose of enforcing the navigation laws and the compilation of statistics of exports, although duty-paid entries of imported merchandise are sometimes accepted by such officers, and it is probable that the designation of Ashtabula as an immediate transportation subport of entry would not necessitate a greater number of officers being stationed at that place than at present, although the number of officers required at such a subport in the future and the amount of expense incident thereto will depend entirely upon the amount of business transacted.

The department is therefore of the opinion that the enactment of the said bill would be in the interests of commerce and without any disproportionate increase of expense, and it recommends that the same be passed.

Respectfully,

FRANKLIN MACVEAGH,
Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 578.

FEDERAL EMPLOYEES' COMPENSATION BILL.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CARLIN, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 20995.]

The Committee on the Judiciary, to which was referred H. R. 20995 (the Howland bill), having had the same under consideration, report the same back to the House with certain amendments, and recommend that the amendments be agreed to and the bill as amended do pass.

Amendment No. 1: Page 1, line 4, strike out all after the word "employees" down to and including the word "annum" in line 6.

No. 2: Page 1, line 8, strike out the word "line" and insert in lieu thereof the word "company."

No. 3: Page 2, line 1, after the word "pursuing," insert the words "when upon the reservation."

No. 4: Page 2, line 2, strike out the words "from and to the entrance to the reservation."

No. 5: Page 2, line 3, strike out the word "and" and insert in lieu thereof the word "or."

No. 6: Page 2, line 10, strike out the words "while on duty."

No. 7: Page 2, line 18, strike out the word "thirty" and insert "sixty."

No. 8: Page 2, line 21, strike out the word "thirty" and insert "sixty."

No. 9: Page 3, line 3, strike out the word "thirty" and insert "sixty."

No. 10: Page 3, lines 17 and 18, strike out the words "while on duty."

No. 11: Page 6, line 11, strike out the figure "9" and insert the figure "8."

No. 12: Page 10, line 16, strike out the word "employers" and insert the words "United States."

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No. 13: Page 13, line 11, strike out the word "only" before the word "cause" and insert it immediately after the word "cause" in the same line.

No. 14: Page 13, lines 13 and 14, strike out the words "as for a permanent total disability" and insert in lieu thereof the words "only as for permanent partial disability, so far as the subsequent injury is concerned."

No. 15: Page 14, line 12, after the word "party," add the words "to the extent of the amount paid by the United States under this act."

No. 16: Page 14, line 13, strike out the word "only."

No. 17: Page 14, line 14, strike out the word "paid" and insert the words "made only."

No. 18: Page 14, line 16, after the word "creditors," add the words "any assignment of claims or payments due under this act shall be void."

The existing law covering the subject matter of the pending bill is embodied in the following acts:

Act approved May 30, 1908:

HAZARDOUS EMPLOYMENTS.

AN ACT Granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when, on or after August first, nineteen hundred and eight, any person employed by the United States as an artisan or laborer in any of its manufacturing establishments, arsenals, or navy yards, or in the construction of river and harbor or fortification work, or in hazardous employment on construction work in the reclamation of arid lands or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission, is injured in the course of such employment, such employee shall be entitled to receive for one year thereafter, unless such employee, in the opinion of the Secretary of Commerce and Labor, be sooner able to resume work, the same pay as if he continued to be employed, such payment to be made under such regulations as the Secretary of Commerce and Labor may prescribe: *Provided*, That no compensation shall be paid under this act where the injury is due to the negligence or misconduct of the employee injured, nor unless said injury shall continue for more than fifteen days. All questions of negligence or misconduct shall be determined by the Secretary of Commerce and Labor.

SEC. 2. That if any artisan or laborer so employed shall die during the said year by reason of such injury received in the course of such employment, leaving a widow, or a child or children under sixteen years of age, or a dependent parent, such widow and child or children and dependent parent shall be entitled to receive, in such portions and under such regulations as the Secretary of Commerce and Labor may prescribe, the same amount, for the remainder of the said year, that said artisan or laborer would be entitled to receive as pay if such employee were alive and continued to be employed: *Provided*, That if the widow shall die at any time during the said year her portion of said amount shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any.

SEC. 3. That whenever an accident occurs to any employee embraced within the terms of the first section of this act, and which results in death or a probable incapacity for work, it shall be the duty of the official superior of such employee to at once report such accident and the injury resulting therefrom to the head of his bureau or independent office, and his report shall be immediately communicated through regular official channels to the Secretary of Commerce and Labor. Such report shall state, first, the time, cause, and nature of the accident and injury and the probable duration of the injury resulting therefrom; second, whether the accident arose out of or in the course of the injured person's employment; third, whether the accident was due to negligence or misconduct on the part of the employee injured; fourth, any other matters required by such rules and regulations as the Secretary of Commerce and Labor may prescribe. The head of each department or independent office shall have power, however, to charge a special official with the duty of making such reports.

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SEC. 4. That in the case of any accident which shall result in death, the persons entitled to compensation under this act or their legal representatives shall, within ninety days after such death, file with the Secretary of Commerce and Labor an affidavit setting forth their relationship to the deceased and the ground of their claim for compensation under the provisions of this act. This shall be accompanied by the certificate of the attending physician setting forth the fact and cause of death, or the nonproduction of the certificate shall be satisfactorily accounted for. In the case of incapacity for work lasting more than fifteen days, the injured party desiring to take the benefit of this act shall, within a reasonable period after the expiration of such time, file with his official superior, to be forwarded through regular official channels to the Secretary of Commerce and Labor, an affidavit setting forth the grounds of his claim for compensation, to be accompanied by a certificate of the attending physician as to the cause and nature of the injury and probable duration of the incapacity, or the nonproduction of the certificate shall be satisfactorily accounted for. If the Secretary of Commerce and Labor shall find from the report and affidavit or other evidence produced by the claimant or his or her legal representatives, or from such additional investigation as the Secretary of Commerce and Labor may direct, that a claim for compensation is established under this act, the compensation to be paid shall be determined as provided under this act and approved for payment by the Secretary of Commerce and Labor.

SEC. 5. That the employee shall, whenever and as often as required by the Secretary of Commerce and Labor, at least once in six months, submit to medical examination, to be provided and paid for under the direction of the Secretary; and if such employee refuses to submit to or obstructs such examination his or her right to compensation shall be lost for the period covered by the continuance of such refusal or obstruction.

SEC. 6. That payments under this act are only to be made to the beneficiaries or their legal representatives other than assignees, and shall not be subject to the claims of creditors.

SEC. 7. That the United States shall not exempt itself from liability under this act by any contract, agreement, rule, or regulation; and any such contract, agreement, rule, or regulation shall be pro tanto void.

SEC. 8. That all acts or parts of acts in conflict herewith or providing a different scale of compensation or otherwise regulating its payment are hereby repealed.

(Approved, May 30, 1908.)

Section 5 of the sundry civil appropriation bill, approved March 4, 1911 (U. S. Stat. L., vol. 36, at p. 1452, 61st Cong., 3d sess.):

SEC. 5. That hereafter the act granting to certain employees of the United States the right to receive from it compensation for injuries sustained in the course of their employment shall apply to all employees under the Isthmian Canal Commission, when injured in the course of their employment; and claims for compensation on account of injury or death resulting therefrom, and accidents occurring hereafter, shall be settled by the chairman of the Isthmian Canal Commission, who shall as to such claims and under such regulations as he may prescribe perform all the duties now devolving on the Secretary of Commerce and Labor: *Provided*, That when an injury results in death, claim for compensation on account thereof shall be filed within one year after such death.

LIFE-SAVING SERVICE.

[Act of May 4, 1882 (22 Stat., 57).]

SEC. 7. That if any keeper or member of a crew of a life-saving or lifeboat station shall be so disabled by reason of any wound or injury received or disease contracted in the Life-Saving Service in the line of duty as to unfit him for the performance of duty, such disability to be determined in such manner as shall be prescribed in the regulations of the service, he shall be continued upon the rolls of the service and entitled to receive his full pay during the continuance of such disability, not to exceed the period of one year, unless the general superintendent shall recommend, upon a statement of facts, the extension of the period through a portion or the whole of another year, and said recommendation receive the approval of the Secretary of the Treasury as just and reasonable; but in no case shall said disabled keeper or member of a crew be continued upon the rolls or receive pay for a longer period than two years.

SEC. 8 (as amended by sec. 3 of the act of March 26, 1908). That if any keeper or member of a crew of a life-saving station shall hereafter die by reason of perilous

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service or any wound or injury received or disease contracted in the Life-Saving Service in the line of duty, leaving a widow, or a child or children under sixteen years of age, or a dependent mother, such widow and child or children and dependent mother shall be entitled to receive, in equal portions, during a period of two years, under such regulations as the Secretary of the Treasury may prescribe, the same amount, payable quarterly as far as practicable, that the husband or father or son would be entitled to receive as pay if he were alive and continued in the service: *Provided*, That if the widow shall remarry at any time during the said two years, her portion of said amount shall cease to be paid to her from the date of her remarriage, but shall be added to the amount to be paid to the remaining beneficiaries under the provisions of this section, if there be any; and if any child shall arrive at the age of sixteen years during the said two years, the portion of such child shall cease to be paid to such child from the date on which such age shall be attained, but shall be added to the amount to be paid to the remaining beneficiaries, if there be any.

RAILWAY MAIL CLERKS.

Railway mail clerks injured in line of duty are allowed full pay during absence by reason of such injury, and the Post Office appropriation bill made the following provisions for indemnifying railway mail clerks in case of death:

For acting clerks in place of clerks or substitutes injured while on duty, and to enable the Postmaster General to pay the sum of two thousand dollars, which shall be exempt from payment of debts of the deceased, to the legal representatives of any railway postal clerk or substitute railway postal clerk who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury, one hundred thousand dollars. (36 Stat. L., p. 363, 61st Cong., 2d sess.) (Post Office appropriation bill.)

The existing law extends compensation to employees engaged in hazardous employments only.

The pending bill includes all civilian employees.

The existing law gives only substantially one year's full pay.

The pending bill adopts the schedules of compensation agreed on by the employers' liability and workmen's compensation commission for employees of interstate railroads.

Existing law has already adopted the principle of workmen's compensation for certain Government employees, payments for injuries being based on the fact of accident. The proposed law extends that principle to all Government employees.

The pending bill treats the accident as part of the cost of operation.

Under date of March 15, 1912, the Secretary of Commerce and Labor, on request of the chairman of the committee, furnished the committee with detailed information as to the cost to the Government under existing law. The inquiry was made with reference to H. R. 20488; the reply and the tables submitted are printed below:

DEPARTMENT OF COMMERCE AND LABOR,
Washington, March 15, 1912.

DEAR SIR: Complying with your request of the 9th instant for a statement showing the amount that has been paid out to employees of the Government under the compensation act of May 30, 1908, I am sending herewith a statement marked "Table 1," showing the number and aggregate cost of compensated cases for the first two years of the operation of this act and for the third year in so far as payments have been made up to November 30, 1911, on account of accidents occurring between July 1, 1910, and June 30, 1911, the third year of the act. It is to be noted that for the first year the operations cover but 11 months, since the act came in effect on August 1, 1908.

You will observe that the accidents are classified according to their results, as fatal and nonfatal, showing the total number of each and the aggregate cost for each year, with the total for the three years by departments and for the entire service covered. Data are shown but for two years so far as the Isthmian Canal Commission is con-

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cerned, for the reason that the act of March 3, 1911, took the administration of this act out of the hands of the Secretary of Commerce and Labor and intrusted it entirely to the Isthmian Canal Commission, so that we have not at hand the data for the last year except in part. The fact that compensation payments under the act may continue for a full year after the termination of the year in which they occurred makes it impossible to give a complete showing of the payments for the accidents of any given year until the end of a year, plus sufficient time to secure all returns. For this reason the data for 1910–11 are incomplete and include, as stated, only such payments as were reported as made in completed cases up to November 30, 1911.

Complying with your request for the nature of accidents, I am sending a statement, marked "Table 2," which shows the number of compensated accidents by cause of injury for the first and second years, by departments, with the total for each year. This table presents only the compensated cases, as does the statement marked "Table 3," which is sent in compliance with your request for a statement of the nature of the injuries sustained by the employees. In this latter table the departmental classification is ignored and the number and per cent of compensated accidents are shown for each class of injury for the first and second years, with a total for the two years.

It may be of interest to add in this connection that the total number of injuries reported for the first year (11 months) was 4,862 and for the second year 6,948; that the number of fatalities for the first period was 233 and for the second 226; that the number of claims submitted for the first year was 1,805 and the number allowed 1,689; that during the second year there were 2,624 claims submitted and 2,499 allowed.

As to your inquiry whether it is possible to give an estimate as to the probable cost to the United States if bill H. R. 20488 should become a law, I beg to state that I feel unable to attempt to make such an estimate. The experience of the past three years would of course be available as furnishing a basis for computing the cost of the administration of a law covering any number of employees exposed to like hazards and receiving corresponding compensation. It is a fact, however, that the largest additions that would be made to the list of protected employees are exposed to a much smaller degree of hazard than that of the present protected class, while, on the other hand, certain small classes are exposed to perhaps greater hazard than the majority of those now covered by the law. The rates of compensation, also, are various, and for those not now included would probably average above the wages earned by the present beneficiaries of the law. Another difficulty that would arise in this connection would be the determination of what classes are excluded from the protection of the law by the retention of the term "hazardous employments," which has afforded continual difficulty in the administration of the act of May 30, 1908, and which was, as you will recall, stricken out, in so far as employees of the Isthmian Canal Commission are concerned, by the act of March 3, 1911. The question would naturally arise whether it was intended to restore this restrictive phrase in view of its presence in line 2 on page 2 of the bill in hand. If I might venture the suggestion, if it is the purpose of the bill to include all civil employees of the United States, as intimated by your communication, could not that end be reached clearly and without uncertainty by striking out the enumerations with their restrictive modifiers and use the clause "all civilian employees of the United States," with perhaps a restriction as to the amount of salary that should be considered, say, $1,200, in computing the compensation payments under the act?

Very truly, yours,

CHARLES NAGEL,
Secretary.

Hon. H. D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

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TABLE 1.—*Number and aggregate cost of fatal and nonfatal compensated accidents in the several departments of the Government during each of the three years Aug. 1, 1908, to June 30, 1909; July 1, 1909, to June 30, 1910; and July 1, 1910, to June 30, 1911.*

Department.	Fatal.		Nonfatal.		Total.	
	Number.	Aggregate cost.	Number.	Aggregate cost.	Number.	Aggregate cost.
Isthmian Canal Commission:						
1908-9	33	$20,994.19	716	$79,225.64	749	$100,219.23
1909-10	49	26,954.23	1,093	122,287.97	1,142	149,241.30
Total	82	47,948.42	1,809	201,512.11	1,891	249,460.53
Treasury:						
1908-9	.....	.....	[1] 19	4,402.15	[1] 19	4,402.15
1909-10	.....	.....	29	3,491.63	29	3,491.63
1910-11	.....	.....	49	5,265.98	49	5,265.98
Total	.....	.....	[1] 97	13,159.76	[1] 97	13,159.76
War:						
1908-9	16	10,379.29	.243	26,134.37	259	36,513.66
1909-10	23	15,695.27	349	33,854.35	372	49,549.62
1910-11	3	1,459.15	361	34,658.98	364	36,118.13
Total	42	27,533.71	953	94,647.70	995	122,181.41
Navy:						
1908-9	11	9,356.88	551	68,886.91	562	78,243.79
1909-10	8	5,895.38	[2] 795	84,527.30	[2] 803	90,422.68
1910-11	7	6,750.08	812	73,134.71	819	79,884.79
Total	26	22,002.34	[2] 2,158	226,548.92	[2] 2,184	248,551.26
Interior:						
1908-9	4	4,206.25	68	15,883.91	72	20,090.16
1909-10	10	10,437.10	[3] 98	17,197.54	[3] 108	27,634.64
1910-11	1	751.20	89	11,102.30	90	11,853.50
Total	15	15,394.55	[3] 255	44,183.75	[3] 270	59,578.30
Commerce and Labor:						
1908-9	.....	.....	4	1,391.47	4	1,391.47
1909-10	.....	.....	2	135.48	2	135.48
1910-11	.....	.....	2	172.09	2	172.09
Total	.....	.....	8	1,699.04	8	1,699.04
Government Printing Office:						
1908-9	.....	.....	23	1,437.15	23	1,437.15
1909-10	.....	.....	40	4,287.84	40	4,287.84
1910-11	.....	.....	56	4,459.31	56	4,459.31
Total	.....	.....	119	10,184.30	119	10,184.30
Grand total [4]	165	112,879.02	[5] 5,399	591,935.58	[5] 5,564	704,814.60

[1] Not including 1 claimant, compensation not reported.
[2] Not including 1 claimant, who disappeared without receiving compensation.
[3] Not including 2 claimants, who disappeared without receiving compensation.
[4] Not including Isthmian Canal Commission, 1910-11.
[5] Not including 1 claimant, compensation not reported, and 3 claimants who disappeared without receiving compensation.

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TABLE 2.—*Number of accidents, compensated, in the various Government departments during each of the two years Aug. 1, 1908, to June 30, 1909, and July 1, 1909, to June 30, 1910, classified by cause of injury.*

Cause of injury.	Isthmian Canal Commission.		Treasury Department.		War Department.		Navy Department.	
	1908–9	1909–10	1908–9	1909–10	1908–9	1909–10	1908–9	1909–10
1. Motors	6	4	.....	.....	2	3	2	4
2. Power transmission apparatus	10	14	.....	1	3	12	7	11
3. Working machinery using power	44	47	9	5	39	43	79	107
4. Working machinery not using power	3	8	.....	1	.....	3	3	6
5. Elevators, hoists, cranes, etc	24	60	1	.....	11	22	24	24
6. Steam boilers and pipes (explosions, etc.)	10	3	1	.....	2	1	10	5
7. Explosions of dynamite, powder, etc	66	37	.....	.....	2	5	4	1
8. Inflammable, poisonous, hot, corrosive materials, gases, vapors, etc	12	23	.....	1	8	15	23	58
8a. Electrical current	1	11	.....	.....	.....	1	5	8
9. Collapse, fall, etc., of materials, etc	191	161	1	1	56	39	124	[1] 130
10. Falls from ladders, stairs, scaffolding, etc., or into excavations, etc	34	66	1	8	30	38	62	83
10a. Falls on even surface	20	37	2	1	7	19	23	45
11. Loading, unloading lifting carrying, etc	120	272	3	1	38	49	66	122
12. Vehicles (run over by wagons, carts, etc.)	7	5	1	1	2	7	4	10
13. Railway operation (run over, etc.)	85	177	.....	.....	3	12	3	12
14. Animals (kicks, bites, etc.) and riding	5	2	.....	.....	3	3	5	11
15. Shipping and water transportation	14	16	.....	.....	17	21	5	3
15a. Flying bodies, splinters, etc	5	87	.....	.....	1	23	8	60
16. Hand tools and simple instruments	59	59	1	1	21	28	71	56
16a. Stepping on nails and similar sharp bodies	10	17	.....	.....	2	3	5	11
17. Other	23	34	.....	8	11	24	28	34
18. Not reported	.....	2	.....	.....	1	1	1	3
Total	749	1,142	20	29	259	372	562	[1] 804

[1] Including 1 claimant who disappeared without receiving compensation.

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TABLE 2.—*Number of accidents, compensated, in the various Government departments during each of the two years Aug. 1, 1908, to June 30, 1909, and July 1, 1909, to June 30, 1910, classified by cause of injury*—Continued.

Cause of injury.	Interior Department.		Department of Commerce and Labor.		Government Printing Office.		Total.	
	1908-9	1909-10	1908-9	1909-10	1908-9	1909-10	1908-9	1909-10
1. Motors	1						11	11
2. Power transmission apparatus							20	26
3. Working machinery using power	5	6	1		6	11	183	219
4. Working machinery not using power		1					6	19
5. Elevators, hoists, cranes, etc	5	1			1		66	107
6. Steam boilers and pipes (explosions, etc.)		1					23	10
7. Explosions of dynamite, powder, etc	5	2					77	45
8. Inflammable, poisonous, hot, corrosive materials, gases, vapors, etc	2	9			4	2	49	108
8a. Electrical current		1			2		8	21
9. Collapse, fall, etc., of materials, etc	21	27			4	3	397	361
10. Falls from ladders, stairs, scaffolding, etc., or into excavations	5	17	2		2	2	136	214
10a. Falls on even surface	3	2		1	1	5	56	110
11. Loading, unloading, lifting, carrying, etc	6	[1] 10			2	8	235	[1] 462
12. Vehicles (run over by wagons, carts, etc.)	3	2					17	25
13. Railway operation (run over, etc.)	4	6					95	207
14. Animals (kicks, bites, etc.) and riding		8					13	24
15. Shipping and water transportation	1						37	40
15a. Flying bodies, splinters, etc	1	7				2	15	179
16. Hand tools and simple instruments	6	[1] 6		1		2	158	[1] 153
16a. Stepping on nails and similar sharp bodies	3	2					20	23
17. Other	1	2	1		1	3	65	105
18 Not reported						2	2	8
Total	72	[2] 110	4	2	23	40	1,689	[2] 2,499

[1] Including 1 claimant who disappeared without receiving compensation.
[2] Including 2 claimants who disappeared without receiving compensation.
[3] Including 3 claimants who disappeared without receiving compensation.

TABLE 3.—*Number and per cent of all compensated accidents during each of the two years Aug. 1, 1908, to June 30, 1909, and July 1, 1909, to June 30, 1910, classified by nature of injury.*

Nature of injury.	1908-9		1909-10		Total.	
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
Upper extremity:						
1. Loss of right arm			4	0.16	4	0.10
1a. Loss of either arm not specified	1	0.06	4	.16	5	.12
2. Fracture of arm or forearm	35	2.07	49	1.96	84	2.01
3. Other injuries to either arm or forearm	36	2.13	57	2.28	93	2.22
4. Loss of right hand			2	.08	2	.05
5. Loss of either hand not specified	1	.06	3	.12	4	.10
6. Fracture of bones of hand	13	.77	34	1.36	47	1.12
7. Other injuries to hand	94	5.57	167	6.68	261	6.23
8. Loss of one finger, right hand	7	.41	36	1.44	43	1.03
9. Loss of one finger, left hand	3	.18	43	1.72	46	1.10
10. Loss of more than one finger, right hand	4	.24	10	.40	14	.33
11. Loss of more than one finger, left hand	1	.06	14	.56	15	.36
12. Loss of finger or fingers, both hands or either hand not specified	56	3.32	8	.32	64	1.53
13. Fracture of fingers	82	4.85	119	4.76	201	4.80
14. All other injuries to fingers	183	10.83	274	10.96	457	10.91
15. All other injuries to upper extremity	44	2.61	23	.92	67	1.60
Total	560	33.16	847	33.89	1,407	33.60

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TABLE 3.—*Number and per cent of all compensated accidents during each of the two years Aug. 1, 1908, to June 30, 1909, and July 1, 1909, to June 30, 1910, classified by nature of injury*—Continued.

Nature of injury.	1908-9		1909-10		Total.	
	Number.	Per cent.	Number.	Per cent.	Number.	Per cent.
Lower extremity:						
16. Loss of either leg	11	0.65	14	0.56	25	0.60
17. Loss of both legs	2	.12	3	.12	5	.12
18. Fracture of either thigh	17	1.01	10	.40	27	.64
19. Fracture of either leg	49	2.90	[1] 59	2.36	[1] 108	2.58
20. Fracture of both thighs or legs	2	.12	1	.04	3	.07
21. Other injuries to thigh or leg	128	7.58	247	9.88	375	8.95
22. Loss of foot	8	.47	2	.08	10	.24
23. Fracture of bones of foot	90	5.33	115	4.60	205	4.89
24. Other injuries to foot	172	10.18	[1] 330	13.21	[1] 502	11.99
25. Loss of toe or toes	3	.18	14	.56	17	.41
26. All other injuries, lower extremity	101	5.98	28	1.12	129	3.08
Total	583	34.52	[1] 282	32.93	[2] 1,406	33.57
Combined injuries to upper or lower extremity:						
27. Including loss of any part	1	.06	1	.04	2	.05
28. Including fractures	6	.36	2	.08	8	.19
29. All other injuries to the extremities	13	.77	14	.56	27	.64
Total	20	1.18	17	.68	37	.88
Trunk:						
30. Fracture of rib	40	2.37	[1] 54	2.16	[1] 94	2.24
31. Other chest injuries	20	1.18	24	.96	44	1.05
32. Injuries to back	50	2.96	61	2.44	111	2.65
33. Hernias	62	3.67	117	4.68	179	4.27
34. Other abdominal injuries	14	.83	9	.36	23	.55
35. All other injuries to trunk	56	3.32	53	2.12	109	2.60
Total	242	14.33	[1] 318	12.73	[1] 560	13.37
Eyes:						
36. Loss of either eye	9	.53	8	.32	17	.41
37. Other injuries to either eye	63	3.73	90	3.60	153	3.65
37a. Loss of both eyes	.....	.....	2	.08	2	.05
38. Other injuries to both eyes	1	.06	7	.28	8	.19
Total	73	4.32	107	4.28	180	4.30
Head:						
39. Fracture of skull	9	.53	24	.96	33	.79
40. Fracture of other bones	8	.47	8	.32	16	.38
41. Concussion of brain without fracture	7	.41	8	.32	15	.36
42. All other injuries to head	33	1.95	78	3.12	111	2.65
Total	57	3.37	118	4.72	175	4.18
Neck:						
44. All injuries	4	.24	4	.16	8	.19
Miscellaneous:						
45. Internal injuries	8	.47	11	.44	19	.45
46. Poisoning	1	.06	8	.32	9	.21
47. All other (including multiple injuries)	114	6.75	244	9.76	358	8.55
48. Not reported	27	1.60	2	.08	29	.69
Total	150	8.88	265	10.60	415	9.91
Grand total	1,689	100.00	[3] 2,499	100.00	[3] 4,188	100.00

[1] Including 1 claimant who disappeared without receiving compensation.
[2] Including 2 claimants who disappeared without receiving compensation.
[3] Including 3 claimants who disappeared without receiving compensation.

The enactment of the pending bill into law will result in an increased cost to the Federal Government by reason of the more liberal compensation provided in the proposed schedules. It is not believed, however, that the cost to the Government will be very materially increased by broadening the scope of the beneficiaries under the law, as those now included are engaged in hazardous employments and

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naturally the larger number of accidents occurs in those branches of the service. At the same time, it will take care of many cases not now covered by the existing law. No satisfactory estimate could be made by the Secretary of Commerce and Labor on this matter.

During the last few years your committee has had under consideration and discussion many phases of proposed legislation looking toward the broadening of employers' liability laws or the enactment of workmen's compensation acts. The sentiment behind the demand for workmen's compensation legislation has been rapidly increasing throughout the country, and has manifested itself in statute form in many of the States of the Union. Some States have gone further than others in the enactment of legislation of this character. In some States the legislation takes the form of so-called employers' liability laws taking away some of the common-law defenses in actions for negligence. In other States the legislation has been workmen's compensation legislation, which treats an accident as part of the cost of production or operation, and does away entirely with the doctrine of negligence. In the industrial world, before the development which has taken place in later years, the doctrines of negligence had a legitimate place in the liability laws of the country. In the industrial world, as conditions exist to-day, it would seem that the burden of industrial accidents should not be allowed to rest on the shoulders of those who are, by reason of the accident, rendered incapable of carrying that burden. Under present conditions, if a machine breaks down, repair parts are immediately supplied, and the cost of repairs is, without question, charged to the cost of production of the plant, and we believe that the same principle should be applied to the employee who is injured or killed.

No constitutional question can be raised in connection with the pending bill; it is purely a question of willingness on the part of the Federal Government to extend the proposed relief to its own employees; and your committee, in making this favorable report in behalf of the pending bill, do so feeling that it is the part of wisdom and along the lines of broad-minded and constructive legislation for the Federal Government to recognize its responsibility and assume the liability imposed by the pending bill. The Federal Government should be willing to treat its own employees as well at least as it proposes to compel industrial enterprises to treat their employees.

(We print for information a summary of the various liability and compensation acts of foreign countries, showing how Government employees are treated in the respective countries.)

AUSTRIA.

Date of enactment.—December 28, 1887, in effect November 1, 1889. Amendatory acts, March 30, 1888, April 4 and July 28, 1889, January 17, 1890, December 30, 1891, September 17, 1892, July 20, 1894, and July 12, 1902.

Injuries compensated.—All injuries causing death or disability for more than three days received in the course of employment, unless caused intentionally.

Industries covered.—Mining, quarrying, stonecutting, manufacturing, building trades, railways, transportation on inland waters, storage, theaters, chimney sweeping, street cleaning, building cleaning, sewer cleaning, dredging, well digging, structural iron working, etc.; agricultural and forestry establishments using machinery.

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Persons compensated.—All workmen and technical officials regularly employed, but in agricultural and forestry only employees exposed to machinery.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO GOVERNMENT EMPLOYEES UNLESS AN EQUAL OR MORE FAVORABLE COMPENSATION IS PROVIDED BY OTHER LAWS.

Burden of payment.—Medical and surgical treatment for twenty weeks and compensation for four weeks of disability paid by sick funds, to which employers contribute one-third and employees two-thirds. Compensation for disability after fourth week, and for death, paid by territorial insurance associations, to which employees contribute 10 per cent and employers 90 per cent.

Compensation for death:

(*a*) Funeral expenses not to exceed 25 florins ($10.15).

(*b*) Pensions to members of family, not to exceed 50 per cent of earnings of deceased, to—

Widow, 20 per cent until death or remarriage; in the latter case a lump sum equal to three annual payments; to dependent widower, 20 per cent during disability.

Each legitimate child, 15 years of age or under, 15 per cent when one parent survives and 20 per cent when neither survives; to each illegitimate child, 15 years of age or under, 10 per cent; pensions of widow (or widower) and children reduced proportionately if they aggregate over 50 per cent.

(*c*) When pensions to above heirs do not reach 50 per cent, dependent heirs in ascending line receive pensions, not to exceed 20 per cent of earnings of deceased, parents taking precedence over grandparents.

(*d*) In computing pensions, the excess of the annual earnings over 1,200 florins ($487.20) is not considered.

Compensation for disability:

(*a*) Medical and surgical attendance for twenty weeks, paid by sick benefit fund.

(*b*) For total temporary or permanent disability, 60 per cent of average daily wages of insured workmen in the locality, paid by sick benefit funds, from first to twenty-eighth day; and 60 per cent of average annual earnings of injured person, after twenty-eighth day, paid by territorial accident insurance institutions.

(*c*) For partial temporary or permanent disability, benefits consist of a portion of above allowance, but may not exceed 50 per cent of average annual earnings.

(*d*) In computing payments the excess of annual earnings over 1,200 florins ($487.20) is not considered.

Revision of compensation.—Reconsideration of the case may be undertaken by the insurance association of its own will, or upon petition.

Insurance.—Payments are met by mutual insurance associations of employers, in which all employees are required to be insured. The country is divided into districts, with a separate association for each district.

Security of payments.—Operations of the insurance associations are conducted under the supervision of the minister of interior, who may increase the assessments.

Settlement of disputes.—Disputes are settled by arbitration courts composed of a judicial officer appointed by the minister of justice, two experts appointed by the minister of the interior, and one representative each of the employers and the employees.

BELGIUM.

Date of enactment.—December 24, 1903, in effect July 1, 1905.

Injuries compensated.—All injuries by accident to employees in the course of and by reason of the execution of the labor contract, causing death or disability for over one week, unless intentionally brought on by the person injured.

Industries covered.—Practically all establishments in mining, quarrying, forestry work, manufacturing, building and engineering work, transportation, and telephone and telegraph services; establishments using mechanical motive power; industrial establishments employing five or more persons; agricultural and commercial establishments employing three or more persons; industries designated by royal decree as dangerous. Other industries at option of employer.

Persons compensated.—Workmen and apprentices, and salaried employees exposed to the same risks as workmen whose annual salaries do not exceed 2,400 francs ($463.20).

GOVERNMENT EMPLOYEES.—ACT COVERS EMPLOYEES OF ANY PUBLIC ESTABLISHMENT ENGAGED IN INDUSTRIES ENUMERATED ABOVE.

Burden of payment.—Entire cost of compensation rests upon employer.

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Compensation for death:

(*a*) Funeral benefit of 75 francs ($14.48).

(*b*) A sum representing value of an annuity of 30 per cent of annual earnings of deceased, calculated upon basis of his age at death, to be distributed to—

Dependent widow or widower, whole amount if no other heirs, four-fifths if one child under 16 years of age or one or more dependent heirs, three-fifths if two or more children.

Children under 16 years of age, the residue.

Dependent heirs in ascending line and descending line under 16 years of age, in absence of widow or widower or children under 16 years of age.

Dependent brothers and sisters under 16 years of age in absence of heirs above enumerated.

(*c*) Allowances in case of annual wages of 2,400 francs ($463.20) or more, or of 365 francs ($70.45) or less, are based upon these amounts respectively.

(*d*) Payments to widow and heirs in ascending line are converted into life pensions, those to other heirs into pensions expiring at age of 16 years. Heirs may require one-third of capital value of life pensions to be paid in cash and pension reduced accordingly.

Compensation for disability:

(*a*) Expense of medical and surgical treatment for not over six months.

(*b*) If totally disabled, an allowance of 50 per cent of daily wages, beginning with day after accident.

(*c*) If partially disabled, an allowance of 50 per cent of loss of earning power, beginning with day after accident.

(*d*) If, after three years, disability is permanent, temporary allowance is replaced by life annuity. Victim may require one-third of capital value of pension to be paid in cash and pension reduced accordingly.

(*e*) Allowances in case of annual wages of 2,400 francs ($463.20) or more, or of 365 francs ($70.45) or less, are based upon these amounts, respectively.

Revision of compensation.—Revision of compensation because of aggravation or diminution of disability, or death of victim, may be made within three years.

Insurance.—Employers may transfer burden of payment of compensation to establishment funds or approved insurance companies or to general savings and retirement fund. They may also transfer burden of payment of temporary allowances to mutual aid societies.

Security of payments.—Employers who have not relieved themselves of liability by insurance must make deposits of cash or securities or give real estate mortgages to secure pension payments. To secure temporary disability payments of uninsured employers a State guaranty fund is maintained by a tax levied upon such employers.

Settlement of disputes.—The local justice of the peace has sole jurisdiction as a court of first resort over disputes arising under the act, and his judgment is final in all cases involving 300 francs ($57.90) or less.

BRITISH COLUMBIA.

Date of enactment.—June 21, 1902; in effect May 1, 1903.

Injuries compensated.—Injuries by accident arising out of and in the course of the employment which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, unless the injury is "attributable solely to the serious and willful misconduct or serious neglect" of the injured workman.

Industries covered.—Railways, factories, mines, quarries, engineering work, and buildings which exceed 40 feet in height and are being constructed or repaired by means of a scaffolding or being demolished, or on which machinery driven by mechanical power is used for construction, repair, or demolition.

Persons compensated.—All persons engaged in manual labor or otherwise.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO CIVILIAN EMPLOYEES IN THE SERVICE OF THE CROWN TO WHOM IT WOULD APPLY IF THE EMPLOYER WERE A PRIVATE PERSON.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than $1,000 nor more than $1,500, to those wholly dependent on earnings of deceased.

(*b*) A sum less than above amount if workman leaves persons partially dependent on his earnings, the amount to be agreed upon by the parties or to be fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial, not exceeding $100, if deceased leaves no dependents.

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Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed $10, and total liability not to exceed $1,500.

(*b*) A weekly payment during partial disability after second week, to be fixed with regard to the difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after the injury.

(*c*) A lump sum may be substituted for the weekly payments, after six months, on the application of the employer, the amount to be settled, in default of agreement, by arbitration under the act.

Revision of compensation.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for the substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the attorney-general certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with this scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of the employer becoming bankrupt, such workman has a first claim upon the amount so due, and a judge of the supreme court may direct the insurers to pay such sum into any chartered bank of Canada, to be invested or applied to payment of compensation.

Settlement of disputes.—Disputes arising under the act are settled by arbitration of existing committees representative of employers and employees, or if either party objects, by a single arbitrator agreed upon by the parties, or, in the absence of agreement, by an arbitrator appointed by a judge of the supreme court. An arbitrator appointed by a judge of the supreme court has all the power of a judge of the supreme court. Questions of law may be submitted by the arbitrator for the decision of a judge of the supreme court.

CAPE OF GOOD HOPE.

Date of enactment.—June 6, 1905; in effect September 1, 1905.

Injuries compensated.—All injuries to employees arising out of and in the course of the employment causing death or necessitating absence from work for more than three days and not being caused by or through the gross carelessness of the injured employee.

Industries covered.—Any trade, business, or public undertaking, on land or upon or within the territorial waters of the colony, except domestic, messenger, or errand service, or employment in agriculture.

Persons compensated.—Employees, whether engaged in manual work or otherwise.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO CIVILIAN PERSONS EMPLOYED BY OR UNDER THE CROWN TO WHOM IT WOULD APPLY IF EMPLOYER WERE A PRIVATE PERSON.

Burden of payment.—Employer and every principal are jointly and severally liable for the compensations required under the act.

Compensation for death.—When death results from an injury for which a lump sum has not already been paid on account of permanent disability—

(*a*) A lump sum not exceeding three years' wages of deceased, nor more than £400 ($1,946.60), to those wholly dependent upon the workman's earnings.

(*b*) A lump sum not exceeding £200 ($973.30) to those partially dependent upon the workman's earnings; in the absence of persons totally dependent, the sum not to exceed the value of the support which they were receiving from the deceased, calculated for two years.

(*c*) Temporary payments previously made not to be deducted from above sums unless they have continued longer than three months.

(*d*) Reasonable expenses of medical attendance and burial, not exceeding £40 ($194.66), in case deceased leaves no dependents.

Compensation for disability:

(*a*) A sum not exceeding three years' wages, less any payments received under a provisional order of court, but not exceeding £600 ($2,919.90) in case of permanent total disability, and a smaller sum in proportion to loss of earning power and not exceeding £300 ($1,459.95) in case of permanent partial disability.

(*b*) A payment made, by order of the local magistrate, at the same intervals as the customary wage payments, not exceeding 50 per cent of wages received at time of the injury, nor £2 ($9.73) per week if the injury causes temporary d ability lasting more than three days.

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Revision of compensation.—The provisional order may be set aside or altered by the magistrate, upon request of either party, if justified by a further examination of the injured person or by production of additional evidence.

Insurance.—Employers may insure in a company or association against personal injury to the workmen employed by them or in their behalf. If the employer contributes toward a benefit society of which the injured or deceased person is a member, allowance is made for such contribution by the court in its order or judgment fixing amount of compensation to be paid.

Security of payments.—When an employer or principal is adjudged or admits liability under the act and is entitled to any sum from any insurers on account of such liability, then, in the event the employer becomes insolvent, the worker or his dependents have a first claim upon such sum.

Settlement of disputes.—Compensation in cases of disability is fixed provisionally for not more than six months by the local magistrate after receiving a physician's certificate of disability and holding an inquiry. No appeal can be taken from this preliminary order except against a finding on the question of gross carelessness, and then only upon leave granted by the superior court. In case the injury results in death or permanent disability, the claimants have a right of action in the local magistrate's court for the amounts due under the law. In fixing the amount, the court is required in every case to have regard to the workman's or the dependent's necessities.

DENMARK.

Date of enactment.—January 7, 1898, in effect January 15, 1899; amended May 15, 1903.

Injuries compensated.—All injuries by accident occasioned by the trade or its conditions, and causing either death or disability lasting over thirteen weeks, unless brought on intentionally or through gross negligence of the victim.

Industries covered.—Practically all establishments in mining, quarrying, manufactures, building and engineering work, transportation, telephone and telegraph services, diving and salvage; establishments using mechanical power which makes them subject to factory inspection; other industrial establishments designated by the minister of interior.

Persons compensated.—All workmen in mechanical and technical departments, including those in supervisory capacity whose annual earnings do not exceed 2,400 crowns ($643.20).

GOVERNMENT EMPLOYEES.—ACT APPLIES TO ALL EMPLOYEES OF STATE AND THE COMMUNAL GOVERNMENTS IN INDUSTRIES ABOVE INDICATED.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death:

(*a*) Funeral benefit of 50 crowns ($13.40).

(*b*) A lump sum equal to four times annual earnings of deceased, but not over 3,200 crowns ($857.60) nor less than 1,200 crowns ($321.60), to—

Widow, whole amount, if she survives.

Child, whole amount, if it be the only heir.

Children, according to decision of insurance council, when there is no widow.

If neither widow nor children, insurance council decides whether and how far other heirs receive compensation.

Compensation for disability:

(*a*) From end of thirteenth week after accident until end of treatment, or until disability is declared permanent, a daily compensation of 60 per cent of earnings, but not less than 1 crown (27 cents) nor over 2 crowns (54 cents) for total disability, and a proportionate compensation for partial disability.

(*b*) In case of permanent disability an indemnity of six times annual earnings, but not less than 1,800 crowns ($482.40) nor over 4,800 crowns ($1,286.40) for total permanent disability, and proportionate payments for partial permanent disability.

(*c*) If employee suffering from permanent disability is a male between 30 and 55 years of age, he may demand purchase of an annuity. For men of other ages, or of unsound mind, or women and children, the insurance council may substitute an annuity.

Revision of compensation.—Determination of degree of permanent disability must be made as soon as possible after one year from date of injury. If this be not possible, a temporary determination may be made, but a redetermination may be demanded within two years following.

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Insurance.—Employees may transfer obligation imposed by the law by insuring their employees in authorized insurance companies or mutual employers' insurance associations.

Security of payments.—Where liability under the law has not been transferred by insurance, indemnity for disability is a preferred claim upon assets of employer.

Settlement of disputes.—Disputes concerning compensation, unless settled by mutual consent, must be referred to insurance council. Appeals may be had to the minister of interior.

FINLAND.

Date of enactment.—December 5, 1895, in effect January 1, 1898.

Injuries compensated.—All injuries by accident during work, causing death or disability for more than six days, except when brought on intentionally or through gross negligence of victim, intentionally by any other person than the one charged with supervision of the work, or caused by some other occurrence utterly independent of the nature or conditions of work.

Industries covered.—Mines, quarries, metallurgical establishments, factories, sawmills, industrial establishments using mechanical power, construction of churches and buildings over one story high; construction and operation of water, gas, electric power plants, and operation of railroads.

Persons compensated.—All persons actually employed at work, but not those supervising only.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO EMPLOYMENT ON THE STATE AND COMMUNAL CONSTRUCTION WORKS AND STATE RAILWAYS.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death.—In addition to any prior payments on account of disability, pensions to dependent heirs, from day of death, not exceeding 40 per cent of annual earnings of deceased, to—

(*a*) Widow, 20 per cent until death or remarriage; in latter case a final sum equal to two annual payments.

(*b*) Each child until the age of 15 years, 10 per cent if one parent survives, and 20 per cent if neither parent survives.

(*c*) In computing pensions, earnings of workman to be considered not over 720 marks ($138.96) nor under 300 marks ($57.90); but no adult employee to receive a pension greater than his actual earnings.

Compensation for disability:

(*a*) A pension equal to 60 per cent of employee's earnings for total disability, or a pension proportionate to the degree of incapacity for partial disability, to be paid from day of recovery from illness due to injury, or after 120 days have elapsed since injury.

(*b*) Pension may by mutual consent be replaced by single payment, if it does not exceed 20 marks ($3.86) annually.

(*c*) In computing pension, earnings of workman to be considered not over 720 marks ($138.96) nor under 300 marks ($57.90); but no adult employee to receive a pension greater than his actual earnings.

(*d*) In cases of temporary disability (including all cases of disability for 120 days after injury) daily compensation of 60 per cent of earnings, beginning with seventh day after accident, for complete temporary disability, and a proportionate compensation for partial disability; but not more than 2.50 marks (48 cents) per diem.

(*e*) Until recovery, injured employee may be given treatment in a hospital in lieu of other compensation; during such treatment his wife and children get a compensation equal to pension in case of death.

Revision of compensation.—Demands for revision of compensation may be made by either party before proper court.

Insurance.—Employees are required to transfer the burden of payment of compensation to a governmental insurance office, private insurance company, mutual employers' insurance association, or approved foreign insurance company, unless unable to obtain such insurance or released from this obligation on presentation of satisfactory guarantees.

Security of payments.—When exempted from the duty of insuring his employees, or unable to obtain insurance, the employer must guarantee payment of pension to the injured workman or his family by arrangement with a private insurance company.

Settlement of disputes.—In case of absence of insurance or dissatisfaction with decision of insurance company, injured employee or his dependent may carry the case into the inferior court of the locality.

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FRANCE.

Date of enactment.—April 9, 1898, in effect July 1, 1899; amendatory and supplementary acts March 22, 1902; March 31, 1905; April 12, 1906, and July 17, 1907.

Injuries compensated.—All injuries by accident to workmen or salaried employees during or on account of labor causing death or disability for five or more days, unless produced intentionally by the victim. If due to inexcusable fault of victim or of employer, compensation may by a court order be decreased or increased, but not exceeding actual earnings of victim.

Industries covered.—Building trades, factories, workshops, shipyards, transportation by land and water, public warehouses, mining and quarrying, manufacture or handling of explosives, agricultural and other work using mechanical power, and mercantile establishments; other industries on request of both parties.

Persons compensated.—All workmen and salaried employees.

GOVERNMENT EMPLOYEES.—LAW APPLIES TO STATE, DEPARTMENTAL, AND COMMUNAL ESTABLISHMENTS WHEN ENGAGED IN INDUSTRIES ENUMERATED ABOVE.

Burden of payment.—Entire cost of compensation falls upon employer.

Compensation for death:

(*a*) Funeral expenses not exceeding 100 francs ($19.30).

(*b*) Pensions to dependent heirs not exceeding 60 per cent of annual wages of deceased, distributed to—

Widow or widower, 20 per cent until death or remarriage, in which latter case a final sum equal to three annual payments.

Children under 16 years of age if one parent survives—15 per cent if there is but one child; 25 per cent if there are two children; 35 per cent if there are three children; 40 per cent if there are four or more children.

Each child under 16 years of age if neither parent survives, 20 per cent.

Each ascendant and each descendant under 16 years of age dependent upon deceased, if no widow or children survive, 10 per cent, the aggregate not to exceed 30 per cent.

(*c*) If annual wages exceed 2,400 francs ($463.20), only one-fourth of the excess is considered in computing pensions.

Compensation for disability:

(*a*) Expenses of medical or surgical treatment.

(*b*) If permanently disabled, a pension of 66⅔ per cent of annual wages for total disability and of one-half loss of earning capacity for partial disability; or, if demanded, one-fourth capital value of pension in cash, the pension to be reduced accordingly.

(*c*) If temporarily disabled, an allowance of 50 per cent of daily wages, beginning with fifth day, and including Sundays and holidays, unless disability lasts more than ten days, when payments become due from the first day.

(*d*) If annual wages exceed 2,400 francs ($463.20), only one-fourth of the excess is considered in computing pensions.

(*e*) Payments of pensions of not over 100 francs ($19.30) per annum may, by mutual consent when beneficiary is of age, be replaced by a cash payment.

Revision of compensation.—Revision of compensation because of aggravation or diminution of disability of victim may be made within three years.

Insurance.—Employers may transfer burden of payment of compensation to approved mutual aid, accident, insurance, or guaranty associations, or, in case of pensions, to national accident insurance or national old-age pension funds.

Security of payments.—The State guarantees against loss of pension payments on account of insolvency of employers or insurance organizations, and is reimbursed by a special tax on employers within scope of the act. For temporary disability payments, medicines, and medical or surgical attendance, and funeral expenses of the victim, his creditors or representatives have a preferred claim on property of employer.

Settlement of disputes.—Disputes as to pensions or involving more than 300 francs ($57.90) may be carried into higher civil courts. Judgments of local justice of the peace is final in other cases.

GERMANY.

Date of enactment.—July 6, 1884, in effect October 1, 1885. supplementary acts May 28, 1885; May 5, 1886; July 11 and 13, 1887. A codification enacted June 30, 1900.

Injuries compensated.—Injuries by accident in the course of the employment, causing death or disability for more than three days, unless caused intentionally. Compensation may be refused or reduced if injury was received while committing an illegal act.

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Industries covered.—Mining, salt works, quarrying and allied industries, shipyards, factories, smelting works, building trades, chimney sweeping, window cleaning, butchering, transportation and handling, agriculture, forestry, and fisheries.

Persons compensated.—All workmen, and those technical officials whose annual earnings are less than 3,000 marks ($714). With the approval of the Imperial Insurance Office the law may be extended to other classes.

GOVERNMENT EMPLOYEES.—ACT COVERS GOVERNMENT EMPLOYEES IN POSTAL, TELEGRAPH, AND RAILWAY SERVICES AND IN INDUSTRIAL ENTERPRISES OF ARMY AND NAVY, UNLESS OTHERWISE PROVIDED FOR.

Burden of payment.—Medical and surgical treatment for ninety-one days and benefit payments from third to ninety-first days are provided by sick-benefit funds, to which employers contribute one-third and employees two-thirds; from twenty-eighth to ninety-first day payments are increased by one-third at expense of employer in whose establishment accident occurred; after ninety-first day and in case of death from injuries, expense is borne by employers' associations supported by contributions of employers.

Compensation for death:

(*a*) Funeral benefits of one-fifteenth of annual earnings of deceased, but not less than 50 marks ($11.90).

(*b*) Pensions to dependent heirs not exceeding 60 per cent of annual earnings of the deceased, as follows: Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to three annual payments; dependent widower, 20 per cent of annual earnings; each child 15 years of age or under, 20 per cent; payments to consort and to children to be reduced proportionately, if the total would exceed 60 per cent; dependent heirs in ascending line, 20 per cent or less, if there is a residue after providing for above heirs; orphan grandchildren, 20 per cent or less, if there is a residue after providing for above heirs.

(*c*) If annual earnings exceed 1,500 marks ($357), only one-third of excess is considered in computing pensions.

Compensation for disability:

(*a*) Free medical and surgical treatment paid first thirteen weeks by sick-benefit funds, and afterwards by employers' associations.

(*b*) For temporary or permanent total disability, 50 per cent of daily wages of persons similarly employed, but not exceeding 3 marks (71 cents), paid by sick-benefit funds from third day to end of fourth week; from fifth to end of thirteenth week, above allowance by sick-benefit fund plus 16⅔ per cent contributed by employer direct; after thirteen weeks, 66⅔ per cent of average annual earnings of injured person paid by employers' associations.

(*c*) For complete helplessness, necessitating attendance, payments may be increased to 100 per cent of annual earnings.

(*d*) For partial disability, a corresponding reduction in payments.

(*e*) If annual earnings exceed 1,500 marks ($357), only one-third of excess is considered in computing pensions.

Revision of payments.—Whenever a change in condition of injured person occurs a revision of benefits may be made.

Insurance.—Payments are met by mutual insurance associations of employers, in which all employees are required to be insured at the expense of employers. Separate associations have been organized for each industry.

Security of payments.—Solvency of employers' associations is guaranteed by the State.

Settlement of disputes.—Disputes are settled by "arbitration courts for workingmen's insurance," composed of one Government official, two representatives of workmen, and two of employers.

GREAT BRITAIN.

Date of enactment.—December 21, 1906, in effect July 1, 1907; replacing acts of August 6, 1897, and July 30, 1900.

Injuries compensated.—Injuries by accident arising out of and in the course of employment which cause death or disable a workman for at least one week from earning full wages at the work at which he was employed. Compensation is not paid when injury is due to serious and willful misconduct, unless it results in death or serious and permanent disablement.

Industries covered.—"Any employment."

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Persons compensated.—Any person regularly employed for the purposes of the employer's trade or business whose compensation is less than £250 ($1,216.63) per annum; but persons engaged in manual labor only are not subject to this limitation.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO CIVILIAN PERSONS EMPLOYED UNDER THE CROWN TO WHOM IT WOULD APPLY IF THE EMPLOYER WERE A PRIVATE PERSON.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £150 ($729.98) nor more than £300 ($1,459.95), to those entirely dependent on earnings of deceased.

(*b*) A sum less than above amount if deceased leaves persons partially dependent on his earnings, amount to be agreed upon by the parties or fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial, but not to exceed £10 ($48.67) if deceased leaves no dependents.

Compensation for disability:

(*a*) A weekly payment during incapacity of not more than 30 per cent of employee's average weekly earnings during previous twleve months, but not exceeding £1 ($4.87) per week; if incapacity lasts less than two weeks no payment is required for the first week.

(*b*) A weekly payment during partial disability, not exceeding the difference between employee's average weekly earnings before injury and average amount which he is earning or is able to earn after injury.

(*c*) Minor persons may be allowed full earnings during incapacity, but weekly payments may not exceed 10 shillings ($2.43).

(*d*) A sum sufficient to purchase a life annuity through the Post Office Savings Bank of 75 per cent of annual value of weekly payments may be substituted, on application of the employer, for weekly payments after six months; but other arrangements for redemption of weekly payments may be made by agreement between employer and employee.

Revision of benefits.—Weekly payments may be revised at request of either party, under regulations issued by the secretary of state.

Insurance.—Employers may make contracts with employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the registrar of friendly societies certifies that the scheme is not less favorable to the workmen and their dependents than the provisions of the act, and that a majority of the workmen are favorable to the substitute. The employer is then liable only in accordance with the provisions of the scheme.

Security of payments.—In case of employer's bankruptcy, the amount of compensation due under the act, up to £100 ($486.65) in any individual case, is classed as a preferred claim; or where an employer has entered into a contract with insurers in respect of any liability under the act to any workman such rights of the employer, in case he becomes bankrupt, are transferred to and vested in the workman.

Settlement of disputes.—Questions arising under the law are settled either by a committee representative of the employer and his workmen, by an arbitrator selected by the two parties, or, if the parties can not agree, by the judge of the county court, who may appoint an arbitrator to act in his place.

HUNGARY.

Date of enactment.—April 9, 1907, in effect July 1, 1907.

Injuries compensated.—Injuries by accident in the course of the employment causing death or disability for more than three days. Injuries caused intentionally are not compensated unless fatal.

Industries covered.—All factories subject to inspection, mines, quarries, metallurgical establishments, building trades, lumbering, construction work, shipbuilding, slaughterhouses, pharmacies, sanatoria, theaters, institutes of art and science.

Persons compensated.—All employees in industries enumerated.

GOVERNMENT EMPLOYEES.—ACT COVERS GOVERNMENT EMPLOYEES IN STATE, MUNICIPAL, AND COMMUNAL INDUSTRIES ENUMERATED ABOVE.

Burden of payment.—All benefits and cost of treatment for first ten weeks provided by sick funds to which employers and employees contribute equally. Beginning with eleventh week, entire cost is defrayed by employers through the accident fund.

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Compensation for death:

(*a*) Funeral benefit of twenty times average daily wages.

(*b*) Pensions to heirs not exceeding 60 per cent of annual earnings of deceased, as follows—

Widow, 20 per cent of annual earnings until death or remarriage; in latter case a final sum equal to 60 per cent of annual earnings; or to dependent widower 20 per cent during disability.

Each child 16 years of age or under, 15 per cent if one parent survives, 30 per cent if neither survives; payments to consort and children reduced proportionately if they aggregate more than 60 per cent.

Dependent parents and grandparents if there is a residue after providing for above heirs, 20 per cent or less.

Dependent orphan grandchildren 15 years of age or under, if there is a residue after providing for above heirs, 20 per cent or less.

(*c*) In computing pensions the excess of annual earnings above 2,400 crowns ($487.20) is not considered.

Compensation for disability:

(*a*) Free medical and surgical treatment provided first ten weeks by sick fund and afterwards by accident fund.

(*b*) For temporary or permanent total disability, 50 per cent of average daily wages but not exceeding 4 crowns (81 cents) for first ten weeks, provided by sick fund; beginning with eleventh week, 60 per cent of average annual earnings, provided by accident fund.

(*c*) For complete helplessness necessitating attendance payments may be increased to 100 per cent of annual earnings.

(*d*) For partial disability a corresponding portion of full pension.

(*e*) In computing pensions the excess of annual earnings above 2,400 crowns ($487.20) is not considered.

Revision of compensation.—Whenever a change in condition of injured person occurs the accident fund or the injured person may ask for a revision of the benefits.

Insurance.—Payments are met by a state insurance institution, in which all employees are required to be insured at the expense of employers.

Security of payment.—Guaranteed by the State.

Settlement of disputes.—Disputes are settled by arbitration courts, consisting of a presiding judge and an equal number of representatives of workmen and employers.

ITALY.

Date of enactment.—March 17, 1898, in effect September 17, 1898. Amended June 29, 1903. Promulgated in codified form January 31, 1904.

Injuries compensated.—All injuries sustained by workmen or salaried employees during or on account of labor. If due to willful misconduct, employer may be reimbursed through criminal action.

Industries covered.—Mines, quarries, building trades; light, heat, and power plants; arsenals; maritime construction work; transportation; industries requiring the use of handling of explosives; all industrial or agricultural work in proximity to power machinery; where more than five persons are employed in engineering construction work; operations for protection against landslides, floods, hailstorms; logging and timber rafting, and shipbuilding.

Persons compensated.—All workmen and apprentices and overseers receiving not more than 7 lire ($1.35) per day and paid at intervals of one month or less.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO EMPLOYMENT IN STATE, PROVINCIAL, AND COMMUNAL INDUSTRIES ENUMERATED ABOVE UNLESS SPECIALLY PROVIDED FOR, AND TO WORK PERFORMED FOR A GOVERNMENT INSTITUTION UNDER CONTRACT OR CONCESSION.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—If within two years after the accident, five times annual wages of deceased workman, with a maximum of 10,000 lire ($1,930), distributed to—

(*a*) Surviving consort two-fifths of indemnity if there are children; one-half of indemnity if there are dependent ascendants; three-fifths of indemnity if only dependent brothers or sisters; entire indemnity in absence of heirs enumerated.

Children, amounts sufficient to purchase an annuity of equal amount for each child under 12 years of age, and one-half of such annuity for each child from 12 to 18 years of age.

Each dependent parent or grandparent, if there are no children, annuity of amount for life.

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Compensation for death—Continued.

(*a*) Dependent brothers or sisters less than 18 years of age or incapable of performing labor by reason of a mental or physical defect, if there are no children or dependent ascendants, annuities distributed upon same principle as in case of children.

(*b*) In absence of heirs indemnity is turned into a special fund for immediate aid to injured, payment of indemnities for insolvent employers, and prevention of accidents.

Compensation for disability:

(*a*) Cost of first medical and surgical treatment.

(*b*) An indemnity in case of permanent disability of six times annual earnings, but not less than 3,000 lire ($579) if totally disabled, and six times the loss of annual earning capacity if partially disabled, earnings in latter case to be considered as not less than 500 lire ($96.50).

(*c*) A daily allowance in case of temporary disability of one-half the wages of injured workman, payable for not more than three months, if totally disabled, and equal to one-half the reduction in wages occasioned by the injury, if partially disabled.

Revision of compensation.—Both workman and insurer may ask for a revision of compensation within two years after accident.

Insurance.—Employers must insure their employees in (a) the national accident insurance fund, (b) an authorized insurance company, (c) an association of employers for mutual insurance against accidents, or (d) a private employers' insurance fund.

Security of payments.—Payments are guaranteed by State.

Settlement of disputes.—In cases of dispute concerning temporary disability payments, the council of prudhommes or the pretor of the locality in which the accident occurred has authority to sit in final judgment if amount involved does not exceed 200 lire ($38.60). Disputes involving larger amounts are referred for settlement to the local magistrates.

LUXEMBURG.

Date of enactment.—April 5, 1902, in effect April 15, 1903. Sick insurance law enacted July 31, 1901.

Injuries compensated.—All injuries by accident during or because of the employment, resulting in death or disability for more than three days, unless caused intentionally by the victim or during the commission of an illegal act.

Industries covered.—Mines, quarries, manufactories, metallurgical establishments; gas and electric works; transportation and handling; building and engineering construction, and certain artisans' shops having at least five employees regularly and using mechanical motive power. By administrative order other establishments may become subject to the law if regarded dangerous.

Persons compensated.—Workmen and those supervising and technical officials whose annual earnings are less than 3,000 francs ($579). Certain other classes of persons may be voluntarily insured.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO GOVERNMENT TELEGRAPH AND TELEPHONE SERVICES, PUBLIC WORKS CONDUCTED BY PUBLIC AGENCIES, AND OTHER GOVERNMENTAL INDUSTRIAL ESTABLISHMENTS, UNLESS OTHER PROVISIONS ARE MADE FOR PENSIONING EMPLOYEES. PENAL INSTITUTIONS ARE NOT INCLUDED.

Burden of payment.—Benefits and cost of treatment first thirteen weeks provided by sick benefit funds, to which employers contribute one-third and employees two-thirds, if injured person is insured against sickness; if not, because employed less than one week, by an accident insurance association supported by contributions of employers; if not insured for other reasons, by the employer direct; all benefits and treatment after thirteen weeks paid by accident insurance association.

Compensation for death:

(*a*) Funeral expenses, one-fifteenth of the annual earnings, but not less than 40 francs ($7.72) nor more than 80 francs ($15.44).

(*b*) Pensions, not to exceed 60 per cent of earnings of deceased, to—

Widow 20 per cent until death or remarriage; in the latter case a lump sum equal to 60 per cent; same payment to a dependent widower.

Each child 20 per cent until 15 years of age, even if father survives, provided he abandoned them, or the mother who was killed was their main support.

Dependent heirs in an ascending line, 20 per cent.

Dependent orphan grandchildren, 20 per cent until 15 years of age.

Widow and children have the preference over other heirs.

(*c*) In computing pensions only one-third of excess of annual earnings over 1,500 francs ($289.50) is considered.

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Compensation for disability:

(*a*) Entire cost of medical and surgical treatment.

(*b*) For temporary or permanent total disability, from third day to end of fourth week, 50 per cent, and from fifth to end of thirteenth week, 60 per cent of wages of persons similarly employed; after thirteen weeks, 66⅔ per cent of annual earnings of injured person.

(*c*) For partial disability a portion of above (depending upon degree of disability), which may be increased to full amount as long as injured employee is without employment.

(*d*) Lump sum payments may be substituted for pensions when degree of disability is not greater than 20 per cent.

(*e*) In computing pensions only one-third of excess of annual earnings over 1,500 francs ($289.50) is considered.

Revision of compensation.—Demands for change of amount of compensation may be made within three years.

Insurance.—Payments are met by mutual accident insurance association of employers in which all employees must be insured at expense of employers.

Security of payments.—Insurance association conducted under state supervision.

Settlement of disputes.—Appeals from the decisions of the association may be carried within forty days to a justice of the peace, who is required to invite two delegates, representing employer and employee, to assist in an advisory capacity. Further appeals may be taken to the higher courts.

NETHERLANDS.

Date of enactment.—January 2, 1901, in effect June 1, 1901. Other acts February 3 and December 8, 1902, and July 24, 1903.

Injuries compensated.—All injuries caused by accident in the course of the employment and causing death or disability for over two days, unless brought on intentionally. If due to intoxication, compensation is reduced one-half, and if death results no compensation is paid.

Industries covered.—Practically all manufacturing, mining, quarrying, building, engineering construction, and transportation; fishing in internal waters; establishments using mechanical motive power or explosive or inflammable materials, and mercantile establishments handling such materials.

Persons compensated.—All workmen, including apprentices.

GOVERNMENT EMPLOYEES.—ALL STATE, PROVINCIAL, AND COMMUNAL EMPLOYEES ARE INCLUDED WHEN ENGAGED IN ANY OF THE INDUSTRIES ENUMERATED.

Burden of payment.—The entire expense rests upon the employer.

Compensation for death:

(*a*) Funeral benefit of thirty times average daily earnings of deceased.

(*b*) Pensions to heirs of not over 60 per cent of earnings of deceased, distributed to—

Widow, 30 per cent of earnings, until death or remarriage; in latter case two years' payments as a settlement; or to dependent widower, a pension equal to cost of support, but not over 30 per cent of earnings of deceased.

Each child under 16 years of age, 15 per cent if one parent survives and 20 cent if both are dead.

Dependent parents, and their absence to grandparents, not over 30 per cen .

Orphan grandchildren, not over 20 per cent.

Dependent parents-in-law, not over 30 per cent.

Widow and children to be preferred over all other heirs, and their respective shares to be reduced proportionately when aggregating over 60 per cent.

(*c*) In computing pensions, wages higher than 4 florins ($1.61) per day are to be considered as of that amount.

Compensation for disability:

(*a*) Free medical and surgical treatment, or its cost.

(*b*) From day after injury until forty-third day, an allowance of 70 per cent of daily earnings, excluding Sundays and holidays.

(*c*) From forty-third day a pension of above amount during total disability and smaller pension in proportion to loss of earning power if partially disabled.

(*d*) In computing pensions, wages higher than 4 florins ($1.61) per day are to be considered as of that amount.

Revision of compensation.—An examination of condition of victim may be made whenever the Royal Insurance Bank so desires.

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Insurance.—Employers may insure their employees in the Royal Insurance Bank (a State institution), in a private company or association operating under State supervision, or they may carry the burden themselves. If not insured in the Royal Insurance Bank, a sufficient guaranty must be deposited with the latter. Employers must bear a proportionate share of the expense of administration of the Royal Insurance Bank, whether they insure in it or not.

Security of payments.—Compensation payments are guaranteed by the State.

Settlement of disputes.—Appeals may be taken from decisions of the Royal Insurance Bank to local arbitration councils, in which employers and employees are equally represented and from them to a central arbitration council whose decisions are final.

NEW ZEALAND.

Date of enactment.—October 18, 1900, to take effect at a date fixed by the governor by order in council. Amended October 3, 1902, November 23, 1903, November 8, 1904, October 31, 1905, and October 29, 1906.

Injuries compensated.—All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, and hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated.—All persons under contract with an employer.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO WORK CARRIED ON BY OR ON BEHALF OF THE GOVERNMENT OR ANY LOCAL AUTHORITY IF IT WOULD, IN CASE OF A PRIVATE EMPLOYER, BE AN EMPLOYMENT TO WHICH THE ACT APPLIES.

Burden of payment.—Entire cost of compensation rests upon employer; but if there are contractors, then on such contractors and the principal, jointly and severally.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30) nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by a magistrate or by the arbitration court.

(*c*) Reasonable expenses of medical attendance and burial, not exceeding £30 ($146), in case deceased leaves no dependents.

Compensation for disability:

(*a*) A weekly payment during disability not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, but not to exceed £2 ($9.73) nor to fall below £1 ($4.87) where employee's ordinary rate of pay at time of accident was not less than 30 shillings ($7.30) per week. Total liability of employer is limited to £300 ($1,459.95). No payment is made for first week if disability does not continue for a longer period than two weeks.

(*b*) A lump sum may be substituted for weekly payments for permanent total or partial disability, to be agreed on by the parties or, in default of agreements determined by the court of arbitration.

Revision of benefits.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the scheme is shown to be not less favorable to the general body of employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under this act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge upon the employer's interest in such property and has priority over all charges other than those lawfully existing at the time of the commencement of the act.

Settlement of disputes.—Disputes arising under the act are settled by the court of arbitration under the industrial arbitration act. Where claim for compensation does not exceed £200 ($973.30) proceedings may be instituted before a magistrate whose decision is final, except that in cases where amount involved does not exceed £50 ($243.33) either party may, with the consent of the magistrate, and in cases where the claim exceeds £50 ($243.33), without such consent, appeal from the decision on any point of law.

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NORWAY.

Date of enactment.—July 23, 1894, in effect July 1, 1895.

Injuries compensated.—All injuries by industrial accidents, causing death, or disability for more than four weeks, or requiring treatment after that period, unless intentionally brought about by the injured person.

Industries covered.—Practically all factories and workshops using other than hand power; mines and quarries; the handling of ice, explosives, or inflammable wares; building and engineering construction, electric work, transportation, salvage, and diving, chimney sweeping, and fire extinguishing. Employees in other industries may avail themselves of this insurance system.

Persons compensated.—All workingmen and overseers.

GOVERNMENT EMPLOYEES.—ACT COVERS EMPLOYEES IN GOVERNMENT OR COMMUNAL SERVICE, WHEN ENGAGED IN ANY OF THE INDUSTRIES ENUMERATED ABOVE, UNLESS AT LEAST EQUAL COMPENSATION IS PROVIDED BY SPECIAL REGULATION.

Burden of payment.—Cost of compensation rests upon employer.

Compensation in case of death:

(*a*) Funeral benefit of 50 crowns ($13.40).

(*b*) Pensions to heirs not exceeding 50 per cent of earnings, to be distributed to—

Widow, 20 per cent of earnings, until death or remarriage; in the latter case a lump sum equal to three annual payments; or dependent widower, 20 per cent of annual earnings of deceased while disability lasts.

Each child 15 per cent of annual earnings till age of 15 years if one parent survives, or 20 per cent if neither survives; 15 per cent for each parent to each child when both parents have died as result of injuries.

Dependent relatives in ascending line, if there is a residue after providing for above-mentioned heirs, a pension of 20 per cent of earnings until death or cessation of need, to be divided equally; but living parents exclude grandparents from participation.

(*c*) In computing pensions, the excess of annual earnings over 1,200 crowns ($321.60) is not considered.

(*d*) Pension payments are in addition to prior allowances granted for disability.

Compensation for disability:

(*a*) Free medical and surgical treatment, or cost of same, after four weeks.

(*b*) If employee is totally disabled for more than four weeks an allowance of 60 per cent of the earnings, but not less than 0.50 crown (13 cents) per diem or 150 crowns ($40.20) per annum; and a proportionate allowance in case of partial disability.

(*c*) If injured employee is forced to stay in a hospital, dependents receive allowances during that time equal to the pensions granted in cases of death.

(*d*) If injured employee is not a member of a sick insurance fund he is entitled to receive from employer directly sick benefits and free medical treatment from first day of injury.

(*e*) In computing allowances the excess of annual earnings over 1,200 crown ($321.60) is not considered.

Revision of compensation.—Compensation is subject to revision upon demand of either the beneficiary or the insurance office.

Insurance.—A State central insurance office is established for the entire Kingdom, in which all employees subject to the law must be insured by employer, unless he is, for special reasons, relieved by royal order from the obligation of insurance.

Security of payments.—Insurance office is guaranteed by the State.

Settlement of disputes.—Appeals from decisions of insurance office may be entered within six weeks with the special insurance commission.

QUEENSLAND.

Date of enactment.—December 20, 1905, in effect March 31, 1906.

Injuries compensated.—All injuries by accident, arising out of and in the course of the employment, which cause death or disable a workman for at least two weeks from earning full wages at the work at which he was employed, except when the injury is directly attributable to his serious and willful misconduct, or when it occurs while proceeding to or from his place of work.

Industries covered.—Industrial, commercial, manufacturing, building, agricultural, pastoral, mining, quarrying, engineering, or hazardous work carried on by or on behalf of the employer as a part of his trade or business.

Persons compensated.—All persons under contract with an employer.

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GOVERNMENT EMPLOYEES.—ACT APPLIES TO ANY WORK CARRIED ON BY OR ON BEHALF OF THE GOVERNMENT OR ANY LOCAL AUTHORITY, IF IT WOULD, IN CASE OF A PRIVATE EMPLOYER, BE AN EMPLOYMENT TO WHICH THE ACT APPLIES.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30) nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased; but aged and infirm employees may agree in advance to accept a reduced amount.

(*b*) A sum less than above if heirs are only partly dependent.

(*c*) Reasonable expenses of medical attendance and burial, not exceeding £30 ($146), if deceased leaves no dependents.

Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 ($4.87), and total liability not to exceed £400 ($1,946.60); except that aged and infirm employees may agree in advance to accept a reduced amount.

(*b*) A weekly payment during partial disability after second week, not exceeding one-half of difference between the employee's average weekly earnings before the accident and the average weekly amount which he is earning or able to earn after injury.

(*c*) Minors may be allowed full earnings during incapacity, not exceeding 10 shillings ($2.43) weekly.

(*d*) A lump sum may be substituted for weekly payments after three months, on application of employer, the amount to be agreed upon or, in default of agreement, to be determined by a police magistrate.

Revision of compensation.—Weekly payments may be revised by a police magistrate at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance, in place of the provisions of the act if the scheme is officially certified to be not less favorable to the employees and their dependents than the provisions of the act. In such case the employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a worker under such liability, then in the event of his becoming insolvent, such workman has a first claim upon this sum for the amount so due.

Settlement of disputes.—Disputes arising under the act are heard and determined by a police magistrate, whose decision is final, except that either party may appeal from this decision on any point of law with the latter's leave if the claim does not exceed £50 ($243.33), or without his leave if it exceeds that amount.

RUSSIA.

Date of enactment.—June 2 (15), 1903, in effect January 1 (14), 1904.

Injuries compensated.—All injuries by accident occasioned by or on account of the work and causing death or disability for more than three days, unless brought on intentionally by the victim or due to gross imprudence.

Industries covered.—Metallurgical and mining establishments and factories and workshops using other than hand power, but exclusive of shops of private railroad and steamship companies and certain rural industrial establishments.

Persons compensated.—Workmen and those technical officials whose annual earnings do not exceed 1,500 rubles ($772.50).

GOVERNMENT EMPLOYEES.—ACT APPLIES TO MINING, METALLURGICAL, AND MANUFACTURING ESTABLISHMENTS OF MUNICIPAL AND ZEMSTVO GOVERNMENTS, BUT NOT TO NATIONAL GOVERNMENT EMPLOYEES, FOR WHOM SPECIAL REGULATIONS EXIST.

Burden of payment.—Entire burden of payment rests upon employer.

Compensation for death:

(*a*) Funeral expenses not exceeding 30 rubles ($15.45) for an adult and 15 rubles ($7.73) for a child under 15 years of age.

(*b*) Pensions to dependent heirs not exceeding 66⅔ per cent of annual earnings of victim, distributed to—

Widow, 33⅓ per cent until death or remarriage; in the latter case a lump sum equal to three annual payments.

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Compensation for death—Continued.

(*b*) Each child until age of 15 years, 16⅔ per cent if one parent survives and 25 per cent if neither parent survives.

Dependent heirs in ascending line, 16⅔ per cent.

Each dependent orphan brother and sister until 15 years of age, 16⅔ per cent. Widow and children take precedence over other dependent heirs, who share the remainder in equal parts.

(*c*) Pension may, by mutual consent of employer and beneficiary, be replaced by single payment of ten times amount of annual pension and, in case of children, pension multiplied by the number of years remaining for pension payments, but not exceeding ten.

Compensation for disability:

(*a*) Free medical and surgical treatment or reimbursement of expense of same.

(*b*) If permanently disabled, a pension of 66⅔ per cent of annual earnings of victim in case of total disability, and a pension proportionate to degree of incapacity in case of partial disability, to be paid from time when degree of permanent disability was determined; if amount of pension exceeds that of previous allowance for temporary disability, difference between the two during the period of disability is paid to permanently injured employee.

(*c*) Pension may, by mutual consent of employer and beneficiary, be replaced by a single payment of ten times amount of annual pension.

(*d*) If temporarily disabled, an allowance of 50 per cent of actual wages of victim from day of accident until complete recovery from disability or the determining of degree of permanent disability.

Revision of compensation.—Demands for revision of payments or to secure a pension previously refused may be made by either party within three years.

Insurance.—Employers may transfer burden of payment of compensation by insuring their employees in authorized insurance companies or societies.

Security of payments.—On retiring from business employer must guarantee payments by insurance or by deposit with a state bank. In case of insolvency, payments constitute a preferred claim.

Settlements of disputes.—Disputes may be carried into courts as other civil cases. Such cases are exempt from court fees, the documents are free from stamp tax, and attorney's fees are fixed by law.

SOUTH AUSTRALIA.

Date of enactment.—December 5, 1900, in effect not earlier than June 1, 1901.

Injuries compensated.—All injuries to workmen arising out of and in the course of the employment causing death or disability for at least one week, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Railways, waterworks, tramways, electric-lighting works, factories, mines, quarries, engineering and building work, employments declared by a proclamation of the governor upon addresses from both houses of parliament to be dangerous or injurious to health or dangerous to life or limb, and agricultural pursuits where mechanical motive power is used.

Persons compensated.—All persons engaged in manual labor or otherwise.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO CIVILIAN PERSONS EMPLOYED UNDER THE CROWN TO WHOM IT WOULD APPLY IF THE EMPLOYER WERE A PRIVATE PERSON.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £150 ($729.98) nor more than £300 ($1,459.95), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by arbitration.

(*c*) Reasonable expenses of medical attendance and burial not exceeding £50 ($243.33), if deceased leaves no dependents.

Compensation for disability:

(*a*) A weekly payment during disability after first week, not exceeding 50 per cent of employee's average weekly earnings during the previous twelve months, such weekly payments not to exceed £1 ($4.87) nor, in case of total incapacity, to be less than 7s. 6d. ($1.83) per week, and total liability not to exceed £300 ($1,459.95).

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Compensation for disability—Continued.

(*b*) A weekly payment during partial disability after first week to be fixed with regard to difference between employee's average weekly earnings before the accident and average weekly amount which he is earning or able to earn after injury.

(*c*) A lump sum not exceeding £300 ($1,459.95) may be substituted for weekly payments, after six months, on application of either party, the amount to be settled by arbitration under the act in default of agreement.

Revision of benefits.—Weekly payments may be revised at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act if the public actuary certifies that the scheme is on the whole not less favorable to general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with the scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first claim upon this sum, and any special magistrate may direct its payment into the savings bank to be applied to payment of compensations due.

Settlement of disputes.—Disputes arising under the act are settled by the arbitration of existing committees representative of employers and employees, or, if either party objects, by a single arbitrator agreed on by the parties, or, in absence of agreement, by a special magistrate. An arbitrator appointed by the magistrate has all the powers of a local court.

SPAIN.

Date of enactment.—January 30, 1900, in effect July 28, 1900.

Injuries compensated.—All injuries by accidents to employees in the course of and by reason of the employment causing death or disability. Compensation may be reduced if injured person was engaged in an illegal act.

Industries covered.—Manufacturing, mines, quarries, metallurgical establishments, construction work, industries injurious to health, transportation, gas and electric works, street cleaning, theaters, and agricultural and forestry establishments using power machinery.

Persons compensated.—Workmen performing manual labor, including helpers and apprentices.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO EMPLOYEES OF STATE FACTORIES AND OTHER GOVERNMENT ESTABLISHMENTS, TO LABOR ACCIDENTS IN WAR AND NAVAL DEPARTMENTS, AND TO ESTABLISHMENTS OF PROVINCIAL AND COMMUNAL GOVERNMENTS.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—In addition to any prior benefits paid for disability—

(*a*) Funeral expenses not exceeding 100 pesetas ($19.30).

(*b*) A lump sum equal to two years' earnings if widow and children or dependent orphan grandchildren under 16 years survive; eighteen months' earnings if only children or orphan grandchildren survive; one year's earnings if only widow survives; ten months' earnings to dependent parents or grandparents over 60 years of age, in absence of widow or children, if two or more survive; seven months' earnings if only one parent or grandparent survives.

(*c*) For these lump-sum payments, by mutual consent, the following pensions may be substituted: Forty per cent of annual earnings when widow and children or grandchildren survive; 20 per cent of annual earnings when only widow survives; 10 per cent to each dependent parent or grandparent over 60 years of age when no widow or children survive, but not over 30 per cent in the aggregate; compensation to widow ceases on her remarriage and to children on their attaining the age of 16 years.

(*d*) In these cases the daily earnings to be considered as not less than 1.50 pesetas (29 cents).

(*e*) All of these compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

Compensation for disability:

(*a*) Free medical and surgical treatment during disability.

(*b*) Fifty per cent of daily earnings, including Sundays and holidays, from day of injury to day of recovery from disability, but not over one year, after which case is treated as one of permanent disability.

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Compensation for disability—Continued.

(*c*) In case of permanent disability, in addition to the foregoing, a sum equal to two years' earnings for total disability.

Eighteen months' earnings if total disability extends only to former trade.

One year's earnings in cases of partial permanent disability for usual employment, unless the employer agrees to employ injured workman at some other work at old rate of wages.

(*d*) In these cases the daily earnings to be considered as not less than 1.50 pesetas (29 cents).

(*e*) Compensations are increased by 50 per cent if the establishment is lacking in the required safety provisions.

Revision of compensation.—No special provision is made in the law.

Insurance.—Employers may contract with authorized insurance companies to assume obligations imposed by law.

Security of payment.—No special provision is made in the law.

Settlement of disputes.—Disputes concerning compensation under the law may be carried to special permanent labor tribunals consisting of representatives of the State, employers, and employees.

SWEDEN.

Date of enactment.—Approved July 5, 1901; in effect January 1, 1903; amended June 3, 1904.

Injuries compensated.—Injuries by accidents to workmen resulting from the employment and causing death or disability for more than sixty days, unless due to the willful act or gross negligence of the victim or the willful act of a third person who has neither the supervision nor the direction of the work.

Industries covered.—Practically all establishments engaged in forestry work, mining, quarrying, turf and ice cutting and handling, manufacturing, chimney sweeping, rafting, railway and tramway service, handling goods, building trades, conduit, road, and other construction work, and gas, electricity, and water distribution. Employers in other industries may insure their employees in the State Insurance Institute and thereby be placed under the provisions of the act. Employees in other industries may secure the protection of the act by insuring themselves in the State Insurance Institute.

Persons compensated.—Workmen and foremen.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO EMPLOYEES IN THE STATE AND COMMUNAL SERVICES WHEN ENGAGED IN ANY OF THE INDUSTRIES ENUMERATED ABOVE.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death.—When death results from the injury within two years—

(*a*) Funeral benefit of 60 crowns ($16.08).

(*b*) Annual pensions not exceeding in the aggregate 300 crowns ($80.40), to be distributed to widow, until remarriage 120 crowns ($32.16); each child under 15 years of age, 60 crowns ($16.08).

Compensation for disability:

(*a*) If permanently disabled annual pension of 300 crowns ($80.40) in case of total disability and a smaller sum, corresponding to loss of earning power in case of partial disability, pension to begin with sixty-first day of disability, or later if permanent character of the disability was not then established.

(*b*) If temporarily disabled for more than sixty days, 1 crown (27 cents) per day, beginning with sixty-first day.

Revision of compensation.—Suit may be brought in a court of first instance by injured employee for a revision of compensation within two years from the date of the fixing of the same.

Insurance.—If an injured person receives an allowance or pension from an organization which is supported entirely or in part by the employer, or if the victim is insured in a private organization by his employer, the amounts received from such a source may be deducted from payments required of employers under the act. Employers may transfer burden of payment of compensation by insuring in the State Insurance Institute, created for this purpose by the act, or in individual cases purchase annuities for pensioners from this institution. Other arrangements may be made between employers and employees if the State Insurance Institute finds upon examination that they are not unfavorable to the employees.

Security of payments.—An employer may be required to furnish adequate security for the payment of the pension to cover the contingency of his neglecting to pay the same, of his retiring from business or leaving the country, or of his becoming insolvent. If he fails to furnish security he may be required to pay a lump sum equal to the capital

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value of the pension plus the payments and interest due, which amount in the case of an injured employee, must be invested in the purchase of an annuity from the Royal Insurance Institute.

Settlement of disputes.—Disputes may be settled either by arbitration or by bringing suit in a court of first instance. The demand for arbitration must be made or the suit brought within two years after the accident, or, in case of fatal accidents, within two years after the death of the victim. If the action is against the State Insurance Institute, one year more is allowed.

WESTERN AUSTRALIA.

Date of enactment.—February 19, 1902, in effect on a date fixed by the governor by order in council.

Injuries compensated.—All injuries caused to a workman arising out of and in the course of the employment causing death or disability for at least two weeks, except when due to serious and willful misconduct of the workman injured.

Industries covered.—Railways, waterworks, tramways, electric-light plants, factories, mines, quarries, engineering and building work, and employments declared by a proclamation of the governor, issued pursuant to addresses from both houses of parliament, to be dangerous or injurious to health or dangerous to life or limb.

Persons compensated.—All persons engaged under contract in any employment.

GOVERNMENT EMPLOYEES.—ACT APPLIES TO ALL PERSONS EMPLOYED UNDER THE CROWN TO WHOM IT WOULD APPLY IF EMPLOYER WERE A PRIVATE PERSON.

Burden of payment.—Entire cost of compensation rests upon employer.

Compensation for death:

(*a*) A sum equal to three years' earnings, but not less than £200 ($973.30), nor more than £400 ($1,946.60), to those wholly dependent upon earnings of deceased.

(*b*) A sum less than above amount if dependents were partly dependent upon deceased, to be agreed upon by the parties or fixed by local court.

(*c*) Reasonable expenses of medical attendance and burial, not to exceed £100 ($486.65), if deceased leaves no dependents.

Compensation for disability:

(*a*) A weekly payment during disability after second week, not exceeding 50 per cent of injured person's average weekly earnings during the previous twelve months, such weekly payment not to exceed £2 ($9.73) and total liability not to exceed £300 ($1,459.95).

(*b*) In case of partial disability, regard is to be had to the difference between average weekly earnings before and after the accident and to any payment other than wages made by employer on account of the injury.

(*c*) A lump sum may be substituted for weekly payments, after six months, on the application of the employer, the amount to be determined by the court in default of agreement.

Revision of benefits.—Weekly payments may be revised by the court at request of either party.

Insurance.—Employers may contract with their employees for substitution of a scheme of compensation, benefit, or insurance in place of the provisions of the act, if the registrar of friendly societies certifies that the scheme is on the whole not less favorable to the general body of employees and their dependents than the provisions of the act. In such case employer is liable only in accordance with this scheme.

Security of payments.—When an employer becomes liable under the act to pay compensation, and is entitled to any sum from insurers on account of the amount due to a workman under such liability, then in the event of his becoming insolvent such workman has a first charge upon this sum for the amount so due. Compensation for injuries sustained in the course of employment in or about a mine, factory, building, or vessel is deemed a charge on the employer's interest in such property.

Settlement of disputes.—Disputes arising under the act are settled by the local court of the district in which the injury is received.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 579.

FOURTEENTH STREET NE.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LOBECK, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 22648.]

The Committee on the District of Columbia, to whom was referred H. R. 22648, report the same back to the House with the recommendation that it do pass, for the following reasons:

This measure is for the purpose of straightening Fourteenth Street, commencing at Otis Street, to Varnum Street.

Fourteenth Street is now laid out from Otis to Randolph Street.

There will be no cost to the District of Columbia in changing the lines of the street as proposed, as the property owners donate the land for the street as now proposed, receiving in exchange therefor the present street.

Your committee has personally examined the street and recommend the passage of the bill.

Further, the Commissioners of the District, in their letter dated April 5, 1912, also recommend that the change be made and that the bill do pass.

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, April 5, 1912.

Hon. BEN JOHNSON,
Chairman Committee on the District of Columbia,
House of Representatives.

DEAR SIR: The Commissioners of the District of Columbia have the honor to submit the following on House bill 22648, Sixty-second Congress, second session, "To authorize a change in the location of Fourteenth Street NE. in the District of Columbia, and for other purposes," which you referred to them for examination and report.

The object of the bill is to authorize the commissioners to prepare a new highway plan to change the lines of Fourteenth Street NE., between Otis and Varnum Streets, and to make necessary changes to provide for street connections to the new location.

A plat is inclosed on which is shown in red lines the proposed new location of Fourteenth Street; in black lines part of streets already public highways, and in blue the

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present location of Fourteenth Street, which it is proposed in the bill to abandon when the new street is acquired. The change is desired for the purpose of enlarging the grounds of the Franciscan Monastery lying to the east of Fourteenth Street. It will also make the line of this street more nearly straight than is now provided by the highway plans. The bill provides that the title to the land contained in the abandoned part of Fourteenth Street as now located shall revert to the owners of the abutting property

The commissioners recommend the passage of the bill.

Very respectfully,

BOARD OF COMMISSIONERS, DISTRICT OF COLUMBIA,
By CUNO H. RUDOLPH, *President.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 580.

ROUTES FOR TRANS-ATLANTIC STEAMSHIPS.

APRIL 20, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. J. Res. 297.]

The Committee on the Merchant Marine and Fisheries, to whom was referred House joint resolution 297, to provide for an international agreement to establish lane routes for trans-Atlantic steamships, having considered the same, report it to the House with the recommendation that it do pass.

The sinking of the British steamship *Titanic* in mid-ocean about 2 a. m. Monday, April 15, 1912, resulting in the awful tragedy of 1,595 out of a total of 2,340, making up her passenger list and crew, going down to watery graves, brings sharply to the attention of maritime nations the necessity of making effective provisions for the safety of life at sea.

For a great many years past international marine conferences have had under consideration an international rule obliging all steamers passing between Europe and North America to follow fixed lane routes, and have sought to bring about agreements to that end, but without results. It has been fully realized that these lanes, if adopted, would materially lessen the risks of collision and ice.

That the danger from fog and ice to vessels traveling the northern route have been known, and that it is desirable to lay down routes by international agreement and make them compulsory for swift steamers has long been regarded as necessary to the safety of life and property at sea.

We sincerely hope that the appalling disaster to the *Titanic* will result in establishing these lane routes, and in the enactment of stringent laws compelling all passenger steamers to carry ample life-saving apparatus.

That this subject has been under consideration and its great importance fully realized by the maritime world will be seen by the

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following excerpts taken from the Report of the International Marine Conference of 1889:

[International Marine Conference, 1889, Vol. III, pp. 265-266.]

LANES FOR STEAMERS ON FREQUENTED ROUTES.

WASHINGTON, *December 6, 1889.*

Rear Admiral S. R. FRANKLIN, United States Navy,
President of the International Marine Conference, etc.

SIR: Committee No. 2 beg leave to report on general division No. 7, entitled "Lanes for steamers on frequented routes," that after consideration of various routes they concluded to report only upon the North Atlantic route, between ports of North America and ports of northern Europe, as the route upon which there was apparently the greater demand for such lanes, if such could be advantageously laid down on any ocean or sea.

It appears that the adherence of fast steam passenger vessels to certain southerly routes would tend to the avoidance of fog and ice, and the committee adopted a resolution to the effect that it was desirable, during the spring and summer months, that such vessels should follow a southern route which would clear the banks of Newfoundland and be likely to be clear of fog and ice; but when it came to proposing any plan to make such ocean lanes compulsory the committee found the subject one of such difficulty that they do not recommend a proposition of that nature.

The difficulty of enforcing the present rule providing for moderate speed in thick weather suggests that greater difficulties would be met with in enforcing lane routes if made compulsory, and it was not thought desirable to lay down routes by international agreement unless they were to be made compulsory for swift steamers.

Routes that might be proposed would be in danger of invasion by ice during the spring and summer months, and at all times would be crossed by sailing vessels and steamers going north and south. If laid down on parallels of latitude which seemed to favor one seaport at the expense of another, or the ports of one country at the expense of the ports of another country, they would arouse opposition that would probably prevent their adoption.

It is possible that, even in the near future, vessels may be employed of such power and speed that all such considerations may have to give way to the paramount consideration of safety, but, so far as shown to the committee, present conditions do not seem to justify an international agreement to that effect. It was not shown to the committee that collisions in midocean between fast ocean steamers had taken place, or that the danger was great enough to justify enforced adherence to certain lanes. Collisions between fast steamships, so far, have occurred nearer the coasts, where all tracks must converge.

The committee believe, however, that the voluntary establishment of and adherence to particular routes by the different steamship companies for different seasons of the year is very desirable. In fact, the committee are of the opinion that such action by the steamship companies, with the experience to be gained thereby, would be quite essential before any concerted action by the maritime powers could be profitably taken.

The committee therefore strongly recommend that the companies interested should, by mutual agreement, after consultation together, establish routes for the different lines and make them public, in order that the hydrographic offices of the various governments may publish them for the information of navigators.

The committee have considered the opinions of several persons in the printed matter that has been laid before them. With the exception of one or two definite propositions, the literature before the conference does not show how such lane routes could be laid down. Even those containing such propositions arrive at the conclusion that such routes could not be made compulsory. In Appendix A will be found extracts or copies of the papers laid before them.

Subsection B: With regard to the safety of fishermen upon the North Atlantic Ocean, the committee are of opinion that their safety would be best promoted by unceasing vigilance on the part of the fishermen and by careful compliance by all with the present rules for the prevention of collisions, especially as to the efficiency of lights and sound signals. If lanes were established which carried the fast steamers clear of the banks frequented by the fishermen, it might promote such a sense of security on their part as would tend to carelessness with reference to the rules as at present

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laid down and lead to danger from the slower vessels which would still frequent the banks.

During the months when the fishing vessels most frequent the banks the fear of encountering fog and ice leads many of the steamers to go south of them.

Quick passages are what the steam vessels aim at in response to the public demand for swift passenger and mail service, and if they were compelled to obey existing rules regarding moderate speed in fogs at all times and in all places they would avoid the Banks still more in order to go clear of fogs; and thus it seems that the solution of the problem before the committee, namely, of how to induce steamships of great speed to take safer routes to avoid fogs, ice, and danger of collision with fishermen and other vessels, is in compelling obedience to the present rules ragarding moderate speed in thick weather. The enforcement of these rules would make it for the interest of such vessels to take routes comparatively clear of fogs and ice and thus attain the end which compulsory legislation might fail to do.

In Appendix B will be found some correspondence regarding the dangers of fishermen upon the Banks, from which it will be observed that vigilance regarding lights and sound signals have been found efficient safeguards in most instances.

Aug. Garde, delegate for Denmark; Henri Lanneluc, delegate for France; Christian Donner, delegate for Germany; N. Bowden-Smith, delegate for Great Britain; H. A. P. Carter, chairman of committee, delegate for Hawaii; T. De Souza Roza, delegate for Portugal; Frederick Malmberg, delegate for Sweden; D. Hubert, delegate for the Netherlands; John W. Shackford, delegate for the United States.

[International Marine Conference, Vol. III, pp. 271-272.]

Report of Ensign George P. Blow, in charge of branch hydrographic office, New York City, on general division No. 7.

With regard to the ocean lanes in the North Atlantic Ocean the following is respectfully submitted:

The great dangers to be avoided are:

(1) Foggy weather and the consequent danger of shipwreck and collision.
(2) Collision with icebergs.
(3) Collision with derelicts.
(4) Collision with fishermen.

In laying out the ocean lanes, therefore, it is necessary to carefully avoid passing through the portions of the ocean where these dangers are the greatest and at the same time to utilize the force of the Gulf Stream where possible.

By plotting the southern limit of fogs and ice for each month of the year it has been found that great circle courses from Boston, New York, Delaware Bay, and the Chesapeake Bay to latitude 40° north, longitude 50° west, all pass clear of the fog limits for nearly the whole year and through the southern limits for the rest of the time. These courses also pass entirely clear of the fishing grounds and ice limits and may be considered as safe. Similarly, great circle courses from latitude 40° north, longitude 50° west, to the Straits of Gibraltar, English Channel, etc., also pass clear of the fog limits. These courses are farther to the southward than the dotted course laid down on the chart, and which is the very shortest practicable route; but they have the great advantage of being in the full strength of the Gulf Stream, which more than makes up for the loss going east.

The homeward-bound trip to the westward is more to the northward, so as to keep to the right and also to avoid the Gulf stream. In this case, latitude 41° north, longitude 50° west, is taken as the point of concentration, as shown on the chart. In certain seasons of the year vessels can go farther north than this with safety, and will undoubtedly do so in spite of whatever ocean lanes may be selected. It is recommended, therefore, that the steamers bound east be required to go to the southward of the courses laid down, and that steamers bound to the westward shall be required to keep to the northward of the course shown on the chart. It is thought that this will have the desired effect. The difference between the shortest course (dotted lines) and the course laid down is only about 180 miles. If steamers are required to go at the rate of half speed in fog, and this law is really enforced, as it should be, there will be no trouble in arranging the ocean-lane system, for it will be both to the interest and comfort of the captain, the interest of the owners, and the comfort and safety of the passengers to take the route laid down. This is the only way in which the ocean-lane system can be enforced, by enforcing the law limiting the speed of vessels in a fog.

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The captains of all large steamers are both willing and anxious to keep clear of the fishermen, fog, and ice, but are required by the owners to make quick trips. To do so they must go to the northward on their trip west, and are compelled to take the risk of running at from 15 to 20 knots an hour through thick fog in order to save time.

[International Marine Conference, 1889, Vol. III, p. 270.]

LANE ROUTES.

WHITE STAR LINE,
Liverpool, January 1, 1876.

GRAY HILL, Esq.,
Secretary North Atlantic Steam Traffic Conference.

DEAR SIR: Referring to the failure to agree upon the international rule obliging all steamers passing between Europe and North America to follow fixed lane routes (which, personally, I much regretted at the time), and having since given a good deal of consideration to the matter during four transatlantic passages, made within the past 18 months, I have determined, as far as practicable, with the company's steamers, to follow Maury's steam lanes, and would suggest that a conference be called, to consist of a nautical and lay representative from such of the European lines as may respond to an invitation to be issued by the North Atlantic Steam Traffic Conference, and that a committee thereof make a joint report, to be unanimously adopted, the responsibility of nonagreement to rest with those who do not accept the committee's recommendation.

These lanes, if generally adopted, would, I think, materially lessen the risks of collision and ice.

Pending the discussion of the subject on the part of the conference, the commanders of the White Star steamers are instructed to follow the routes named.

I am, dear sir, yours, faithfully,

THOMAS H. ISMAY.

OCEAN LANE ROUTES.

LIVERPOOL, *November 12, 1889.*

SIR: We beg to hand you annexed copy of a letter addressed by our senior, under date of January 1, 1876, to the secretary of the North Atlantic Steam Traffic Conference here, relative to the adoption of the lane routes advocated by Lieut. Maury, United States Navy, vide inclosed tract chart.

At the time this letter was written a way could not be found to secure unanimity among the various lines interested, and there has continued up to the present time considerable divergence of practice in regard to the tracks followed by the steamers employed in this much-frequented ocean highway, which neutralizes in a great measure the advantages, in point of safety, that may be derived from the adoption of well-defined routes by certain lines.

We have been disappointed not to see any reference to this subject in the cable report of the proceedings of the conference, and should be sorry if the sittings were to close without so important a question being included in the deliberations, especially as Lieut. Maury's proposals offer so simple and efficacious a remedy.

We sincerely trust that the conference may have seen their way to deal with this long-standing difficulty, and that regulations may be adopted which may tend still further to promote the safe navigation of the North Atlantic.

We remain, sir, your obedient servants,

ISMAY, IMRIE & CO.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 582.

REGULATION OF RADIO COMMUNICATION.

APRIL 20, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 15357.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 15357) to regulate radio communication, having considered the same, report it to the House, with the following amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Amend by striking out all after the enacting clause and insert the following:

That a person, company, or corporation within the jurisdiction of the United States shall not use or operate any apparatus for radio communication as a means of commercial intercourse among the several States, or with foreign nations, or upon any vessel of the United States engaged in interstate or foreign commerce, or for the receipt or transmission of radiograms or signals the effect of which extends beyond the exclusive jurisdiction of the State or Territory in which the same are made, or where interference would be caused thereby with the receipt of messages or signals from beyond the jurisdiction of the said State or Territory, except under and in accordance with a license, revocable for cause, in that behalf granted by the Secretary of Commerce and Labor upon application therefor; but nothing in this act shall be construed to apply to the transmission and exchange of radiograms or signals between points situated in the same State: *Provided*, That the effect thereof shall not extend beyond the jurisdiction of the said State or interfere with the reception of radiograms or signals from beyond said jurisdiction; and a license shall not be required for the transmission or exchange of radiograms or signals by or on behalf of the Government of the United States, but every Government station on land or sea shall have special call letters designated and published in the list of radio stations of the United States by the Department of Commerce and Labor. Any person, company, or corporation that shall use or operate any apparatus for radio communication in violation of this section, or knowingly aid or abet another person, company, or corporation in so doing, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, and the apparatus or device so unlawfully used and operated may be adjudged forfeited to the United States.

SEC. 2. That every such license shall be in such form as the Secretary of Commerce and Labor shall determine and shall contain the restrictions, pursuant to this act, on and subject to which the license is granted; that every such license shall be issued

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only to citizens of the United States or to a company incorporated under the laws of some State, and shall specify the ownership and location of the station in which said apparatus shall be used and other particulars for its identification and to enable its range to be estimated; shall state the purpose of the station, and, in case of a station in actual operation at the date of passage of this act, shall contain the statement that satisfactory proof has been furnished that it was actually operating on the above-mentioned date; shall state the wave length or the wave lengths authorized for use by the station for the prevention of interference and the hours for which the station is licensed for work; and shall not be construed to authórize the use of any apparatus for radio communication in any other station than that specified. Every such license shall be subject to the regulations contained herein and such regulations as may be established from time to time by authority of this act or subsequent acts and treaties of the United States. Every such license shall provide that the President of the United States in time of war or public peril may cause the closing of any station for radio communication and the removal therefrom of all radio apparatus, or may authorize the use or control of any such station or apparatus by any department of the Government, upon just compensation to the owners.

SEC. 3. That every such apparatus shall at all times while in use and operation as aforesaid be in charge or under the supervision of a person or persons licensed for that purpose by the Secretary of Commerce and Labor. Every person so licensed for the operation of any radio apparatus on shore shall be a citizen of the United States. Every person so licensed who in the operation of any radio apparatus shall fail to observe and obey regulations contained in or made pursuant to this act or subsequent acts or treaties of the United States, or any one of them, in addition to the punishments and penalties herein described, upon conviction shall suffer the suspension of the said license, and the same shall not be renewed for a period of one year from and after the date of his conviction of any such failure. It shall be unlawful to employ any unlicensed person or for any unlicensed person to serve in charge of the use and operation of such apparatus, and any person violating this provision shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than two months, or both, in the discretion of the court, for each and every such offense: *Provided*, That in case of emergency the Secretary of Commerce and Labor may authorize a collector of customs to issue a temporary permit, in lieu of a license, to the operator on a vessel subject to the radio ship act of June twenty-fourth, nineteen hundred and ten.

SEC. 4. That for the purpose of preventing or minimizing interference with communication between stations in which such apparatus is operated, to facilitate radio communication, and to further the prompt receipt of distress signals, said stations shall be subject to the regulations of this section. These regulations shall be enforced by the Secretary of Commerce and Labor through the collectors of customs and other officers of the Government as other regulations herein provided for.

The Secretary of Commerce and Labor may, in his discretion, waive the provisions of any or all of these regulations when no interference of the character above mentioned can ensue.

The Secretary of Commerce and Labor may grant special temporary licenses to stations actually engaged in conducting experiments for the development of the science of radio communication, or the apparatus pertaining thereto, to carry on special tests, using any amount of power or any wave lengths, at such hours and under such conditions as will insure the least interference with the sending or receipt of commercial or Government radiograms, of distress signals and radiograms, or with the work of other stations.

In these regulations the naval and military stations shall be understood to be stations on land.

REGULATIONS.

NORMAL WAVE LENGTH.

First. Every station shall be required to designate a certain definite wave length as the normal sending and receiving wave length of the station. This wave length shall not exceed six hundred meters or it shall exceed one thousand six hundred meters.

OTHER WAVE LENGTHS.

Second. In addition to the normal sending wave length all stations, except as provided hereinafter in these regulations, may use other sending wave lengths: *Provided*, That they do not exceed six hundred meters or that they do exceed one thousand six hundred meters: *Provided further*, That the character of the waves emitted conforms to the requirements of paragraphs three and four following.

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USE OF A "PURE WAVE."

Third. At all stations if the sending apparatus, to be referred to hereinafter as the "transmitter," is of such a character that the energy is radiated in two or more wave lengths, more or less sharply defined, as indicated by a sensitive wave meter, the energy in no one of the lesser waves shall exceed ten per centum of that in the greatest.

USE OF A "SHARP WAVE."

Fourth. At all stations the logarithmic decrement per complete oscillation in the wave trains emitted by the transmitter shall not exceed two-tenths, except when sending distress signals or signals and messages relating thereto.

USE OF "STANDARD DISTRESS WAVE."

Fifth. For the purposes of sending signals of distress every station on shipboard shall be so adjusted, except on vessels of small tonnage unable to have plants insuring that wave length, as to permit these signals to be sent with a wave length of approximately three hundred meters.

SIGNAL OF DISTRESS.

Sixth. The distress call used shall be the international signal of distress . . . — — — . . .

USE OF "BROAD INTERFERING WAVE" FOR DISTRESS SIGNALS.

Seventh. When sending distress signals, the transmitter of a station on shipboard may be tuned in such a manner as to create a maximum of interference with a maximum of radiation.

DISTANCE REQUIREMENT FOR DISTRESS SIGNALS.

Eighth. Every station on shipboard, wherever practicable, shall be prepared to send distress signals of the character specified in paragraphs five and six with sufficient power to enable them to be received by day over sea a distance of one hundred nautical miles by a shipboard station equipped with apparatus for both sending and receiving equal in all essential particulars to that of the station first mentioned.

"RIGHT OF WAY" FOR DISTRESS SIGNALS.

Ninth. All stations are required to give absolute priority to signals and radiograms relating to ships in distress; to cease all sending on hearing a distress signal; and, except when engaged in answering or aiding the ship in distress, to refrain from sending until all signals and radiograms relating thereto are completed.

REDUCED POWER FOR SHIPS NEAR A GOVERNMENT STATION.

Tenth. No station on shipboard, when within fifteen nautical miles of a naval or military station, shall use a transformer input exceeding one kilowatt, nor, when within five nautical miles of such a station, a transformer input exceeding one-half kilowatt, except for sending signals of distress, or signals or radiograms relating thereto.

INTERCOMMUNICATION.

Eleventh. Each shore station open to general public service between the coast and vessels at sea shall be bound to exchange radiograms with any similar shore station and with any ship station without distinction of the radio systems adopted by such stations, respectively, and each station on shipboard shall be bound to exchange radiograms with any other station on shipboard without distinction of the radio systems adopted by each station, respectively.

DIVISION OF TIME.

Twelfth. At important seaports and at all other places where naval or military and private or commercial shore stations operate in such close proximity that interference with the work of naval and military stations can not be avoided by the enforcement

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of the regulations contained in the foregoing paragraphs concerning wave lengths and character of signals emitted, such private or commercial shore stations as do interfere with the reception of signals by the naval and military stations concerned shall not use their transmitters during the first fifteen minutes of each hour, local standard time. The Secretary of Commerce and Labor may, on the recommendations of the department concerned, designate the station or stations which may be required to observe this division of time.

GOVERNMENT STATIONS TO OBSERVE DIVISIONS OF TIME.

Thirteenth. The naval or military stations for which the above-mentioned division of time may be established shall transmit signals or radiograms only during the first fifteen minutes of each hour, local standard time, except in case of signals or radiograms relating to vessels in distress as hereinbefore provided.

USE OF UNNECESSARY POWER.

Fourteenth. In all circumstances, except in case of signals or radiograms relating to vessels in distress, all stations shall use the minimum amount of energy necessary to carry out any communication desired.

GENERAL RESTRICTIONS ON PRIVATE STATIONS.

Fifteenth. No private or commercial station not engaged in the transaction of bona fide commercial business by radio communication or in experimentation in connection with the development and manufacture of radio apparatus for commercial purposes at the date of passage of this act shall use a transmitting wave length exceeding two hundred meters, or a transformer input exceeding one kilowatt, except by special authority of the Secretary of Commerce and Labor contained in the license of the station.

SPECIAL RESTRICTIONS IN THE VICINITIES OF GOVERNMENT STATIONS.

Sixteenth. No station of the character mentioned in regulation fifteenth situated within five nautical miles of a naval or military station shall use a transmitting wave length exceeding two hundred meters or a transformer input exceeding one-half kilowatt.

SHIP STATIONS TO COMMUNICATE WITH NEAREST SHORE STATIONS.

Seventeenth. In general, the shipboard stations shall transmit their radiograms to the nearest shore station. A sender on board a vessel shall, however, have the right to designate the shore station through which he desires to have his radiograms transmitted. The station on shipboard shall then wait until such shore station shall be the nearest. If this can not be done the wishes of the sender are to be complied with only if the transmission can be effected without interfering with the service of other stations.

LIMITATIONS FOR FUTURE INSTALLATIONS IN VICINITIES OF GOVERNMENT STATIONS.

Eighteenth. No station on shore not in actual operation at the date of the passage of this act shall be licensed for the transaction of commercial business by radio communication within fifteen nautical miles of the following naval or military stations, to wit: Arlington, Virginia; Key West, Florida; San Juan, Porto Rico; North Head and Tatoosh Island, Washington; San Diego, California; and those established or which may be established in Alaska and in the Canal Zone; and the head of the department having control of such Government stations shall, so far as is consistent with the transaction of governmental business, arrange for the transmission and receipt of commercial radiograms under the provisions of the Berlin convention of nineteen hundred and six and future international conventions or treaties to which the United States may be a party, at each of the stations above referred to, and shall fix the rates therefor, subject to control of such rates by Congress. At such stations and wherever and whenever shore stations open for general public business between the coast and vessels at sea under the provisions of the Berlin convention of nineteen hundred and six and future international conventions and treaties to which the United States may be a party shall not be so established as to insure a constant service day and night without interruption, and in all localities wherever or whenever such service shall not be

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maintained by a commercial shore station within one hundred nautical miles of a naval radio station, the Secretary of the Navy shall, so far as is consistent with the transaction of governmental business, open naval radio stations to the general public business described above, and shall fix rates for such service, subject to control of such rates by Congress. The receipts from such radiograms shall be covered into the Treasury as miscellaneous receipts.

SECRECY OF MESSAGES.

Nineteenth. Every operator shall be obligated in his license to preserve, and shall preserve faithfully, the secrecy of radiograms which he may receive or transmit; and for failure to preserve such secrecy his license may be canceled.

PENALTIES.

For violation of any of these regulations, subject to which a license under sections one and two of this act may be issued, the owner of the apparatus shall be liable to a penalty of one hundred dollars, which may be reduced or remitted by the Secretary of Commerce and Labor, and for repeated violations of any of such regulations, which shall be deemed a misdemeanor, the license may be revoked as provided in section one.

For violation of any of these regulations, subject to which a license under section three of this act may be issued, the operator shall be subject to a penalty of twenty-five dollars, which may be reduced or remitted by the Secretary of Commerce and Labor, and for repeated violations of any such regulations, which shall be deemed a misdemeanor, the license may be suspended as provided in section three.

SEC. 5. That every license granted under the provisions of this act for the operation or use of apparatus for radio communication shall prescribe that the operator thereof shall not willfully or maliciously interfere with any other radio communication. Such interference shall be deemed a misdemeanor, and upon conviction thereof the owner or operator, or both, shall be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed one year, or both.

SEC. 6. That the expression "radio communication" as used in this act means any system of electrical communication by telegraphy or telephony without the aid of any wire connecting the points from and at which the radiograms, signals, or other communications are sent or received.

SEC. 7. That a person, company, or corporation within the jurisdiction of the United States shall not knowingly utter or transmit, or cause to be uttered or transmitted, any false or fraudulent distress signal or call, or false or fraudulent signal, call, or radiogram of any kind. The penalty for so uttering or transmitting a false or fraudulent distress signal or call shall be a fine of not more than two thousand five hundred dollars, or imprisonment for not more than five years, or both, in the discretion of the court, for each and every such offense, and the penalty for so uttering or transmitting, or causing to be uttered or transmitted, any other false or fraudulent signal, call, or radiogram shall be a fine of not more than one thousand dollars, or imprisonment for not more than two years, or both, in the discretion of the court, for each and every such offense.

SEC. 8. That a person, company, or corporation shall not use or operate any apparatus for radio communication on a foreign ship in territorial waters of the United States otherwise than in accordance with the provisions of sections four and seven of this act, and so much of section five as imposes a penalty for interference. Save as aforesaid, nothing in this act shall apply to apparatus for radio communication on any foreign ship.

SEC. 9. That the trial of any offense under this act shall be in the district in which it is committed, or in any district in which the offender may be found, or if the offense is committed upon the high seas or out of the jurisdiction of any particular State or district, the trial shall be in the district where the offender may be found or into which he shall be first brought.

SEC. 10. That this act shall take effect and be in force on and after the first day of January, nineteen hundred and thirteen: *Provided, however*, That the fourth, fifth, seventh, and ninth sections of this act shall take effect and be in force on and after four months after its passage.

The committee recommends the passage of the bill as amended in the belief that it is a practical measure to help accomplish five important results for the general good of the people of the United States,

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for the greater safety of life and property at sea, for the national defense, and for the orderly and scientific development of an instrumentality of human progress and civilization. This conclusion has been reached after three months' study of the subject by such time as the members of the full committee could devote to it and by patient hearings by a subcommittee of all interests concerned. The hearings have been printed. During the same period the Senate Committee on Commerce and a subcommittee of that committee have been holding similar hearings and have reached substantially the same conclusions as has your committee in the bill recommended herewith.

The principal purposes of the bill are:

First. To prevent the establishment of a monopoly in the United States by any private corporation in the use of radiocommunication, or "wireless telegraphy," as it is popularly called. The attempt to establish such a monopoly on a world-wide scale led the maritime nations of the world in 1906 to join in an international agreement, and there is reason to apprehend that an attempt to establish such a monopoly is at least contemplated in the United States.

Second. To promote the most general use of this means of communication without interruption (or "interference," as it is technically called), and thus to insure the full measure of usefulness both to the Government wireless stations for the establishment of which Congress has voted large sums of money, and to such stations as have been established by commercial enterprise. In the present state of the development of wireless telegraphy such interruptions or "interference" can be prevented only by the observance of regulations which can be framed and carried out only by the exercise of the power of Congress "to regulate commerce with foreign nations and among the several States."

Third. To give the greatest efficacy to the distress calls of vessels at sea and thus enhance the usefulness of a powerful agency for the preservation of human life.

Fourth. To bring the United States into accord with the advance other nations have already made in the use and regulation of radiocommunication and to carry out the provisions of the Berlin Radiotelegraphic Convention, to which, by the action of the Senate of the United States on April 3, the United States became a party and by which we are honorably bound to carry out in legislation the necessary measures to execute that convention. While the Congress of the United States may to-day be thankful that it was the first parliamentary body to require by the act of June 24, 1910, wireless apparatus and operators on ocean passenger steamships, we must own that in the regulation of radiocommunication to render it effective we are as yet behind other maritime nations. This bill will bring the United States abreast of all, and in some particulars (pure and sharp wave) in advance of all.

Fifth. To insure to the people of the United States an uninterrupted wireless service 24 hours a day for every day in the year between vessels at sea and the entire Atlantic, Pacific, and Gulf coast lines of the United States and the outlying territories of Porto Rico, the Canal Zone, Hawaii, and Alaska. (A Government system of radiocommunication for the Philippines has already been established.)

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Radio communication is the art of transmission of signals by electrical energy between two points which are not connected by wire or other metallic conductor. The signals are produced by a key like the telegraph operator's key, and consist of dots and dashes of the Morse system, and they are received by a receiver adjusted to the ear like a telephone receiver. Instead of a wire the transmission is effected by means of waves through the ether which travel with the rapidity of light. These waves travel with equal force in all directions from the center just as when a pebble is dropped in a pond undulations extend equally in all directions from the point where it is dropped. Consequently, the signals will be audible to the listener with a receiver at his ear wherever he may stand on the circumference of a circle of which the center is the sending station. This fact is mentioned to show the liability to "interference" with the hearing of messages by wireless telegraphy (or "radiograms") unless the system of sending out and receiving messages is subject to regulation. According to the electrical power used to produce the dots and dashes (which is expressed in kilowatts or in fractions thereof), and according to the adjustment of the apparatus these waves through the ether may be sent at varying lengths, the lengths ordinarily in use ranging from 100 meters to upward of 6,000 meters for the most powerful apparatus. Roughly speaking, the receiving apparatus and the sending apparatus, to get the clearest results, should be adjusted to the same wave length.

Without referring to the early experiments and history of radio communication, which involve the question of patent rights now pending, it will suffice for practical purposes to state that these waves were experimentally applied for practical telegraphic purposes in 1895 by Marconi, who succeeded in transmitting messages a distance of 2 miles. At the present time messages are sent across the Atlantic by wireless, and the new naval wireless station building at Arlington will be able to communicate directly with a similar station at the Canal Zone.

The corporations formed abroad to make use of the inventions of Marconi endeavored at the outset to establish a complete monopoly of this system of communication. To carry out this purpose exclusive contracts with governments were sought, and in addition the company undertook to establish a rule that ship or shore stations equipped with Marconi apparatus would not communicate with any other of the several systems already fairly developed. This attitude on the part of the company led to the calling of a preliminary international conference at Berlin in 1903, in which the United States participated. The preliminary conference was followed by a second conference at Berlin in 1906, at which some nations were represented by delegates with plenary power. Although the delegates of the United States were authorized to act only ad referendum, they took an important part in framing the international radiotelegraphic convention.

The principal features of the Berlin convention designed to prevent the establishment of a monopoly are to be found in article 3 of the convention, which reads:

> The coastal stations and the stations on shipboard shall be bound to exchange wireless telegrams without distinction of the wireless-telegraph system adopted by such stations.

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And in article 1 of the supplementary agreement, brought about mainly through the efforts of the delegates of the United States, which reads as follows:

Each station on shipboard referred to in article 1 of the convention shall be bound to correspond with any other station on shipboard without distinction of the wireless telegraph system adopted by such stations, respectively.

The principle of interchangeability between systems was partially affirmed by Congress in the act of June 24, 1910, to require apparatus and operator for radio communication on ocean steamers in section 2, which reads:

That for the purpose of this act apparatus for radio communication shall not be deemed to be efficient unless the company installing it shall contract in writing to exchange, and shall, in fact, exchange, as far as may be physically practicable, to be determined by the master of the vessel, messages with shore or ship stations using other systems of radio communication.

This bill in the eleventh regulation (intercommunication, p. 8) establishes this principle in the following comprehensive language:

Eleventh. Each shore station open to general public service between the coast and vessels at sea shall be bound to exchange radiograms with any similar shore station and with any ship station without distinction of the radio systems adopted by such stations, respectively, and each station on shipboard shall be bound to exchange radiograms with any other station on shipboard without distinction of the radio systems adopted by each station, respectively.

The section applies to stations open to general public service on the coast and to stations on vessels at sea. It does not, of course, apply to stations exclusively devoted to scientific experiments, to amateur stations, or to private commercial stations which a corporation may establish to maintain communication on its own business between the shore and its ships, such as the stations maintained by the United Fruit Co., to direct its ships where and when to load or unload bananas, and similar purely local communications.

The most important benefit conferred upon mankind by the Berlin convention, as has been repeatedly demonstrated since its adoption generally by nations, is found in the ninth article:

Wireless telegraph stations are bound to give absolute priority to calls of distress from ships, to similarly answer such calls, and to take such action with regard thereto as may be required.

The pending bill directly in the fifth, sixth, seventh, eighth, and ninth regulations and indirectly in all the other regulations, except the nineteenth, is aimed to give efficacy to the article of the Berlin convention just quoted. The particular provision in the bill relating to distress signals applies to all stations whether Government, commercial stations open to public service, private commercial stations, scientific stations, or amateurs, and reads as follows:

Ninth. All stations are required to give absolute priority to signals and radiograms relating to ships in distress; to cease all sending on hearing a distress signal; and, except when engaged in answering or aiding the ship in distress, to refrain from sending until all signals and radiograms relating thereto are completed.

To prevent "interference" the Berlin convention in article 8 provided:

The working of the wireless-telegraph stations shall be organized as far as possible in such a manner as not to disturb the service of other wireless stations.

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And to give effect to this article various regulations were attached to the convention and were recently ratified by the Senate, providing among other things in regulation 2 that—

Two wave lengths, one of 300 meters and the other of 600 meters, are authorized for general public service, and additional wave lengths not to exceed 600 meters or in excess of 1,600 meters.

The intervening wave lengths from 600 to 1,600 meters were reserved by the governments which participated in the convention, for the use of Government stations. These principles are incorporated in the pending bill.

To carry out the Berlin convention and to give effect to its provisions and regulations it was agreed a system of licensing both stations on shipboard and shore stations open to public business as well as operators was necessary.

SECTION 1.

The first section of the bill defines its scope within the commerce clause of the Constitution, and requires all wireless stations, shipboard shore, public and private, to be licensed by the Secretary of Commerce and Labor. This section does not give the head of that department discretionary power over the issue of licenses, but in fact provides for an enumeration of the wireless stations of the United States and on vessels under the American flag. The license system proposed is substantially the same as that in use for the documenting upward of 25,000 merchant vessels.

SECTION 2.

The second section recites the particulars of the license and the station, limits the issue of such licenses to American citizens or corporations organized under the laws of some State of the United States, and gives the President power to close or take possession of such stations in time of war or public peril.

SECTION 3.

The third section requires the license of all operators by the Secretary of Commerce and Labor, and restricts the issue of operators' licenses to citizens of the United States. The license of the operator as well as the license of the apparatus itself are subject to regulations, which are set forth in section 4 of the bill.

The second and third sections of the bill, and particularly the fourth section, cover numerous details which in the judgment of some members of the House possibly should have been left to administrative regulation. The committee, however, after careful consideration, has decided to adopt the principle in these sections of expressing in the statute itself precise limitations upon the powers of administrative officers and a precise statement of the obligations which must be assumed by commercial interests and individuals in taking out licenses for stations or as operators. To follow out this principle in some of the regulations, and in the fourth section of the bill in particular, it has been necessary to employ some abstruse scientific terms because the limitations can not be expressed in popular language. These limitations are as much for the benefit of commercial stations as

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they are for Government stations and do not bear more severely upon one than upon the other. Their aim is to require the use of apparatus which shall secure to the people of the United States the most satisfactory and efficient service. The committee has not felt under any obligation to frame a bill for the protection of antiquated and inadequate apparatus. If such apparatus were harmless, there would be no objection to its use; but when it stands in the way of the use of improved apparatus involving very little additional expense, the committee has preferred to say directly in the bill that improved apparatus shall be used rather than to leave such a question to an administrative officer. The first of the international service regulations provides as follows:

The choice of wireless apparatus and devices to be used by the coastal stations and stations on shipboard shall be unrestricted. The installation of such stations shall as far as possible keep pace with scientific and technical progress.

The United States should at least keep abreast of this international prescription.

The committee has carefully considered the objection by one or two corporations that the bill will delay scientific progress and has rejected it. Practically all other nations are subject to the regulations of the Berlin convention, yet the scientific development of this art has been at least as rapid in Europe as in America. Similar objections have been raised repeatedly abroad and as often have been rejected and shown to be without warrant. The objection is really an objection to any regulation by Congress. To forestall, however, the possibility of unforeseen or undeveloped improvement, the bill at page 5 provides:

The Secretary of Commerce and Labor may, in his discretion, waive the provisions of any or all of these regulations when no interference of the character above mentioned shall ensue.

SECTION 4.

The purpose of the regulations of this section as set forth in the first paragraph are: First, the general prevention of interference between stations of all kinds; second, to facilitate all communications by following rules and regulations taken from the Berlin convention; and, third, making special arrangements to further the receipt of distress signals, especially by Government stations which are ordinarily best qualified for getting aid to a vessel in distress on account of well-known Government activities along those lines. The regulations apply to all commercial, experimental, and amateur stations with the exceptions of regulations 13, 14, and 18, in which Government stations are specifically mentioned. All others are already in effect in a comprehensive set of orders issued by the Navy Department, being necessary, as far as they apply, to the proper conduct of the business of naval ships and stations and to set a good example to commercial stations. The Government stations are generally provided with much more expensive and elaborate apparatus than the commercial stations. These regulations were intended to be sufficiently general to enable all installations at present in use to follow them with a small expenditure of money.

The second paragraph gives the Secretary of Commerce and Labor authority to waive any of the regulations when not necessary to

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enforce them; that is, when apparatus is developed and used at any place where it can not interfere with the work of other stations, it may be independent of all the regulations except certain ones relating to distress calls from sea. An amateur in the interior of the country may get a license by a simple request if its location and characteristics are such as to make it unnecessary to go into details regarding the type and capabilities of the station.

The third paragraph takes care of the experimentation which may be necessary in the development of apparatus.

On page 6 Government stations referred to in the regulations are defined.

First regulation: This requires the use of a definite wave length which a ship will ordinarily use for sending and on which she may be called with the greatest expectation of her hearing the call. The limitation of this wave length to one below 600 meters or one above 1,600 meters is in accordance with regulations 2 and 3 of the Berlin convention. It is expected that some of the provisions of these two regulations will be changed at the London conference, but there is no proposition to extend the range of commercial wave lengths. All nations have agreed to reserve the range from 600 to 1,600 for Government use in order that the least interference between official business and commercial business will be insured. When interfering signals are much stronger than the signals which a certain station is trying to receive the chances of communicating on different wave lengths without interference are much less, and the nterference is dependent directly on the relative strength of the two incoming signals, which, in turn, depends on the relative power or relative distance of the two sending stations and on the difference of wave length used by them. It being a fact that the greater the difference of wave length the closer the stations can work with one another without interference, and it also being a fact that commercial installations usually are not prepared to use more than one wave length for sending, while Government stations are being fitted to quickly change the sending wave length, the wider the range reserved for Government use the more the difference in wave length between those in use for commercial purposes and those for Government purposes in a given locality that can be obtained. For instance, if merchant ships and shore stations are communicating on a 600-meter wave at a given place, a Government station in the same locality would choose a wave length of, say, 1,500 meters. If commercial stations were using 1,600 meters, all Government stations might use sending wave lengths of 1,000 meters, or below.

The following should be noted: That all ships are required by the Berlin convention to use 600 meters or below, and these are the wave lengths most easily obtainable on board ship, since they are suitable for the low power ordinarily used on commercial vessels and for the small and light aerials which they ordinarily carry. These wave lengths are also most suitable for ordinary communication between ship and shore. On the other hand, long-distance work oversea and communication overland requires long wave lengths—that is, wave lengths over 1,600 meters.

Second regulation. This specifically reserves the wave lengths of 600 to 1,600 for the use of Government stations and gives commercial installations latitude in regard to choice of wave lengths to be used.

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It requires also that in sending on these wave lengths the apparatus must be carefully adjusted so as to send signals of a noninterfering character.

Third regulation. This is to prevent a sending station monopolizing too great a range of wave lengths when a certain narrow range would serve just as well. A pure wave is one that has a single "hump" shown in its resonance curve. The signals sent out by the ordinary transmitter in this country at present are sent out simultaneously on two or more wave lengths or bands of wave lengths, only one of which can be received. The other represents loss of energy and interference; that is, the receiving operator can set his receiver so as to get certain signals either at 400 meters or at 600 meters when these signals are sent out by the one transmitter. All transmitters can be adjusted to send at a single wave, or a wave with a single "hump," or a "pure" wave, but the operation is rendered more simple if an additional coil, known as an inductance, is furnished with the ordinary ship and shore station set which at present causes the greatest interference. Samples of "double hump" waves may be seen on pages 43 and 44 of the hearings before the subcommittee of the Senate Committee on Commerce. A pure wave is shown on page 45.

Fourth regulation. This is to require all transmitters to be so adjusted that a certain definite wave length is used, and not a band of wave lengths with more or less indefinite limits. The "broad waves" from a sending station make a number of receivers set for certain distinct wave lengths respond. Sharp waves from a sending station affect one receiver only. Companies operating transmitters not adjusted for sharp waves claim that their work is facilitated because their operators do not have to set their receivers with care. A receiver can be set roughly and the signals received, but since it is possible for any transmitter to be adjusted to send on a definite wave length, the requirement that they should do so tends to the mutual protection of all stations concerned. Pure and sharp waves ordinarily go together, and the adjustment for one, in most circumstances, involves the adjustment for the other. A sharp wave is shown on page 46 of the hearing. The transmitter whose adjustment is shown by curve 3 on page 46 is sending on a definite wave length a little greater than 900 meters in length, and would have to be very close to other receivers to interfere with them if they were trying to receive signals on wave lengths differing very little from 900.

Fifth regulation: By the regulations attached to the Berlin convention the normal wave length for all ships is fixed at 300 meters, and it is desired to specify that distress signals should be sent on that wave. Ships should send distress calls on one wave length so that all stations may know on what wave length to listen for distress calls. As tugs, pilot boats, and small craft generally are not ordinarily fitted with aerials of sufficient size to enable them to send on a wave length of 300 meters an exception is made in their favor.

Sixth regulation: From the Berlin convention.

Seventh regulation: This waives the requirements of the third and fourth regulations in favor of maximum interference; hence maximum probability of being heard for distress calls.

Eighth regulation: This is to require all ships, except the very small ones, to prepare for sending distress calls over a minimum distance of 100 nautical miles. The expression, "by day," is used on

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account of the absorption of radio energy by daylight and the reduced daylight ranges of stations as compared with their night ranges resulting therefrom. Since the distance over which signals can be sent and received between two stations depends both for sending and receiving on the effective heights of the aerial wires of the two stations, it was necessary to specify in the last lines that the minimum distance should be between two equal stations. This would result in requiring the minimum distance from the poorest equipped ship, provided she had sufficient height and distance between masts to use a wave length of 300 meters and to permit this distance to be attained.

Ninth regulation: From the Berlin convention.

Tenth regulation: The Berlin convention requires ship installations to use ordinarily not more than 1 kilowatt for communicating with the shore. This regulation is intended to prevent ships unnecessarily interrupting the work of all stations in the neighborhood of great seaports and other places where there is a congestion of wireless business. The term "naval or military station" is used because there are now at all important seaports, with very few exceptions, Government stations which, by this regulation, are themselves protected and protect commercial installations, ship or shore, in their localities. At isolated stations this regulation would prevent unnecessary interruption of the work of the stations concerned, since a ship would ordinarily pass a greater distance offshore than 5 nautical miles, and 1 kilowatt should be sufficient for the ordinary ship to communicate with another or with a shore station over a distance of between 100 and 200 miles by day. One-half kilowatt would ordinarily be good for at least 50 miles over water by day.

Eleventh regulation: This is one of the important basic principles of the Berlin convention and should be put into legislation as early as practicable for that reason.

Twelfth regulation is division of time. Interference can not be prevented by using different wave lengths alone. The power used by the stations in sending and their relative distances from one another are factors. For example, two stations are trying to communicate with each other on a certain wave length. They can do so without interference from other pairs of stations trying to communicate with each other on other wave lengths differing by at least 10 per cent from that used by the first-mentioned stations except when other stations use high power in sending or send out signals when very close to one or both of the two stations first mentioned. The interference with the receiving of one station caused by the sending of another near-by station is the most common, and at all large cities where there are two or more stations operating for governmental or commercial purposes within a few miles of one another, a division of time is necessary. The interference can be avoided sometimes by a very great difference in wave length, sometimes by a difference of wave length and the use of low power by all stations concerned. Otherwise by a division of time. Examples of the necessity of a division of time are afforded by the experience of the navy yards at New York and Philadelphia. These have within a few miles in each of the cities mentioned radio apparatus on the department stores of John Wanamaker, and when these stations are communicating with each other on a wave length of about 1,400 meters neither New

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York nor Philadelphia can receive from ships of the Navy sending on 600 meters; that is, the near-by interfering stations force oscillations on the receiving aerials of the navy-yard stations, and the more powerful interfering signals drown out the signals desired. It should be noticed that this division of time may be established only when all other means for preventing interference fail. When interference prevention devices are perfected it will not be necessary to enforce this regulation.

Thirteenth regulation: Government stations to observe division of time. This requires that all Government business must be completed during the first 15 minutes of each hour. No extension provided for except in cases of distress.

Fourteenth regulation: Use of unnecessary power. This is from the Berlin convention.

Fifteenth regulation: Contains general restriction on private stations. This refers to amateurs, of whom there are many thousands in this country.

They would be restricted to comparatively low power and a short wave length which should suffice for all purposes of play or instruction. They would be able to send and receive messages over a large part of a city, depending on the height of the aerial used. Ranges over open country would be greater, and greater still over water. Many operators for commercial and governmental business are being developed by this play. At the same time any amateur who really develops any improvement may be allowed to test same under a special license provided for in the third paragraph at the beginning of section 4.

Sixteenth regulation: Special restrictions in the vicinities of Government stations. This also relates to amateurs and provides for the further reduction in power in the immediate vicinity of a Government station. It is probable that this will not in all circumstances prevent interference with the work of Government stations or commercial stations, but will serve in most cases. Amateurs being mostly schoolboys, they interfere at certain hours regularly.

Seventeenth regulation: Ship stations to communicate with the nearest shore station. This is from the Berlin convention.

Eighteenth regulation: Limitations for future installations in the vicinities of Government stations. The first part of this regulation protects certain naval and military stations from interference by the erection of future commercial stations within 15 nautical miles, as such new stations would compel a division of time in order that the two stations might work without interference. Arlington is mentioned on account of the size and importance of the Arlington station, and the nature of its work as the center of the largest system of stations owned by the Government. Two radio stations erected for overland work in the city of Washington have failed on account of lack of business. The Key West station is mentioned specifically because it is a very important point strategically and is now handling, in a very efficient manner, all commercial work of a great number of vessels which pass through the Florida Straits on voyages to Cuba, the Gulf of Mexico, Central America and the Canal Zone. The United Wireless Telegraph Co. had a station near the Key West naval station with the result that there was constant mutual interference, which was hard to eliminate because a division of time depended on a local agree-

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ment only. When the United Wireless station was destroyed, the Key West naval station took up the commercial work in order to persuade the United Wireless and other commercial companies not to erect another station on Key West Island, which is too small to accommodate more than one station. Key West may be said to be a frontier station.

San Juan, P. R., is in a very important point strategically for naval purposes. The shipping passing near that port is at present very small, but is expected to be large when the canal opens. It is at present the only radio station on the island of Porto Rico, and it deserves this measure of protection. It is a frontier station.

North Head, Wash., is to be improved at considerable expense during the fall of this year for direct communication with Alaska to cover a possible breakdown of the Washington-Alaskan military cable. Its work at all times will be of such importance that it should not be subjected to a division of time. There is at present a low-powered commercial station at Astoria, about 15 miles distant, but it is hoped that this station will not interfere. The regulation prevents the establishment of more commercial stations within 15 miles.

Tatoosh, Idaho, and San Diego are frontier stations at the northwest and southwest corners of the United States, respectively.

In Alaska the Army has a system of radio stations working in conjunction with its cables and land lines. Of these one is a coast station at Nome, and this station, working with others at St. Michaels and on the Yukon River, eliminate the necessity for a cable between Nome and St. Michaels. Other stations, five in number, have been erected by the Navy Department, and three of them connect the following outlying islands with civilization: Pribilof (Seal Islands), Unalaska (Dutch Harbor), and Kodiak. Two of them cover a portion of the military cable above referred to, viz, that between Cordova and Sitka. A sixth station will be erected this summer on Unalga Island. It will be an important and powerful station. There are a few commercial stations. Most of them work only in summer in connection with the salmon-canning industry. The result is a practical Government monopoly which will hold for many years on account of the fact that operation of commercial stations will be unprofitable for some time except in special circumstances.

In the Canal Zone it is proposed to keep all radio communication in the hands of the Government for the protection of the canal and for the facilitation of the canal business. The Navy proposes to operate a high-power station for direct communication with the Arlington station above mentioned and desires to operate smaller stations in conjunction with those to handle the business of the canal. It already has two stations on the Atlantic side, one of which was erected solely for canal business and the other intended for direct communication with Key West and to handle the business of shipping.

The Navy Department would prefer to open all its coast stations for commercial business under the terms of the Berlin convention, and it is believed that most of this business will eventually be handled by Government stations as the operation of shore stations for communicating with ships at sea is known to be not sufficiently remunerative for commercial enterprise, although various companies may propose to do this for some years yet. The reason for this desire for commercial work is to insure as far as possible a continuous

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flow of work through each naval radio station in order that the personnel and the apparatus may be kept up to the high state of efficiency which comes only from constant use. The Berlin convention requires that the hours of operating of shore stations open for public correspondence between the coast and vessels shall be, as far as practicable, continuous. The average commercial shore station is manned by one, sometimes two, operators and is open during certain hours of the 24 only. Naval coast stations, however, with very few exceptions, have four or five operators and a constant watch is kept day and night for handling of Government business, cases of distress, and in some places commercial business. The last part of regulation 20 allows the Secretary of the Navy to fill in all gaps left by commercial companies. Commercial stations, with the exception of those in the few localities mentioned in the first part of this regulation, may prevent naval stations from handling commercial business by establishing a 24-hour schedule and by working under the Berlin convention. Naval stations are ordinarily 200 miles apart and it would be very easy for a commercial company with sufficient resources to monopolize all the commercial work with ships at sea except in the places specially mentioned, provided they were willing to operate under the terms of the Berlin convention which requires, among other things, a 24-hour schedule.

Nineteenth regulation: Secrecy of messages. This is required by the Berlin convention and has been urged by commercial concerns at hearings before committees of Congress.

Penalties.—The penalties for violation of the regulations are framed according to the method followed in acts of Congress for many years for violations of the navigation laws. For first offenses and minor offenses maximum money penalties are provided, which may be reduced by the Secretary of Commerce and Labor in view of extenuating circumstances. Repeated violations involve cancellation of licenses, and are made misdemeanors, and heavy prison sentences are prescribed for malicious interference and false distress calls.

Section 5.

Willful or malicious interference is made a misdemeanor, punishable by a fine of not exceeding $500, or imprisonment for not exceeding one year, or both. (Sec. 60 of the Penal Code of Mar. 4, 1909, provides that anyone who shall interfere with messages over a Government telegraph line shall be subject to a fine of not over $1,000 or not over 3 years imprisonment.)

Section 6.

Defines radio communication to include telephony when it shall be developed without wires.

Section 7.

Makes a false distress call subject to not over $2,500, or imprisonment for not over five years, or both. Any other false or fraudulent signal or message subject to not over $1,000 or imprisonment for not over two years.

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SECTION 8.

Foreign ships are already subject to the Berlin Radiotelegraphic Convention, under which their own nations respectively prescribe penalties for violation of its requirements. This section brings foreign ships within section 4 (certain regulations of this bill not in Berlin convention—3, 4, 8, 10, 16, 20); section 7, false signals; and section 5, penalty for willful interference.

Appendix A shows the shore stations of the United States, naval, military, and commercial, along the seaboard and the Great Lakes, and illustrates the complete system of Government stations established and operated under appropriations by Congress.

Appendix B gives a discussion on wave lengths and interference, by Lieut. Commander D. W. Todd, United States Navy, who, as representative of the Navy Department at the hearings, has been of great assistance to the committee.

APPENDIX A.—*List of wireless stations in the United States and possessions.*

Name and location of station.	Character of station.
UNITED STATES.	
Atlantic and Gulf coast.	
Eastport, Me	Commercial.
Portland, Me	U. S. Navy.
Fort Levitt, Me	U. S. Army.
Portsmouth, N. H. (navy yard).	U. S. Navy.
Amesbury, Mass	Experimental (Pickard).
Cambridge, Mass., Harvard University.	Experimental (Pierce).
Fort Andrews, Mass	U. S. Army.
Brant Rock, Mass	Experimental (trans-Atlantic).
Chatham, Mass	Commercial.
Chelsea, Mass	Experimental.
Boston, Mass.:	
Board of Trade	Do.
Navy yard	U. S. Navy.
Cape Cod, Mass. (2 stations)	Commercial (trans-Atlantic and local).
(South Wellfleet)	U. S. Navy.
Siasconsett, Mass	Commercial.
Quincy, Mass	Do.
Nantucket Shoals lightship	U. S. Navy.
Newport, R. I. (torpedo station).	Do.
Point Judith, R. I	Commercial.
Providence, R. I	Do.
Wilsons Point, Conn	Do.
New London, Conn	Do.
Sea Gate, N. Y	Do.
Sagaponack, N. Y	Do.
Fire Island, N. Y	U. S. Navy.
New York, N. Y	Commercial.
111 Broadway	Do.
Hotel Plaza	Do.
Herald ship news office, the Battery.	Private.
Wanamaker's	Do.
42 Broadway	Commercial.
New York	Experimental.
Brooklyn, N. Y. (navy yard)	U. S. Navy.
Coney Island, N. Y	Commercial.
Fort H. G. Wright, N. Y	U. S. Army.
Fort Totten, N. Y	Do.
Fort Wood, N. Y	Do.
Fort Hancock, N. J	Do.
Bayonne, N. J	Commercial.
UNITED STATES—con.	
Atlantic and Gulf coast—Con.	
Atlantic City, N. J	Commercial.
Cape May, N. J	Do.
Camden, N. J	Do.
Philadelphia, Pa. (2 stations)	Do.
Bellevue-Stratford	Do.
Navy yard	U. S. Navy.
Wanamaker's	Private.
Cape Henlopen, Del	Do.
Sparrows Point, Md	Experimental.
Annapolis, Md. (Naval Academy).	U. S. Navy.
Washington, D. C	Do.
Capitol	Experimental (Elliott Woods).
Mills Building	U. S. Army.
Bureau of Standards	Do.
Arlington, Va	U. S. Navy.
Tangier Island, Va	Commercial.
Arlington, Va.[1]	U. S. Navy.
Fort Monroe, Va	U. S. Army.
Fort Monroe, Va.[1]	
Coast Artillery School	U. S. Navy.
Norfolk, Va	Commercial.
Norfolk, Va. (navy yard)	U. S. Navy.
Virginia Beach, Va	Commercial.
Beaufort, N. C	U. S. Navy.
Diamond Shoals Lightship	Do.
Cape Hatteras, N. C	Commercial.
Charleston, S. C. (navy yard)	U. S. Navy.
Savannah, Ga	Commercial.
Frying Pan Shoals Lightship	U. S. Navy.
St. Augustine, Fla	Do.
Jupiter Inlet, Fla	Do.
Jacksonville, Fla	Commercial.
Knights Key, Fla	Do.
Key West, Fla. (naval station).	U. S. Navy.
Tampa, Fla	Commercial.
Fernandina, Fla	Do.
Pensacola, Fla. (navy yard)	U. S. Navy.
Mobile, Ala	Commercial.
Fort Morgan, Ala	Do.
New Orleans, La	Do.
Naval station	U. S. Navy.
United Fruit Co	Private.
Southwest Pass, La. (United Fruit Co.).	Do.

[1] Under construction.

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APPENDIX A.—*List of wireless stations in the United States and possessions*—Continued.

Name and location of station.	Character of station.
UNITED STATES—continued.	
Atlantic and gulf coast—con.	
Grand Island, La	Commercial.
Port Arthur, Tex	Do.
Galveston, Tex	Do.
Fort Sam Houston, Tex	U. S. Army.[1]
Porto Rico.	
San Juan	U. S. Navy.
Cuba.	
Guantanamo	U.S. Navy.
Panama.	
Colon	Commercial.
Colon (Canal Zone)	U. S. Navy.
Porto Bello	Do.
Boca del Toro	Commercial.
Pacific coast.	
Tatoosh, Idaho, Washington	U. S. Navy.
Friday Harbor, Wash	Commercial.
Seattle, Wash	Do.
Seattle Gas Engine Machine Co.	Private.
University grounds	Commercial.
Roche Harbor, Seattle Gas Engine Machine Co.	Private.
Port Townsend, Wash	Commercial.
Bremerton, Wash. (Puget Sound Navy Yard).	U. S. Navy.
Tacoma, Wash	Commercial.
North Head, Wash	U. S. Navy.
Fort Worden, Wash	U. S. Army.
Astoria, Oreg	Commercial.
Marshfield, Oreg	Do.
Cape Blanco, Oreg	U. S. Navy.
Fort Stevens, Oreg	U. S. Army.
Eureka, Cal	Commercial.
Do	U. S. Navy.
San Francisco, Cal. (2 stations).	Commercial.
The Presidio	U. S. Army.
Yerba Buena Island (naval training station).	U. S. Navy.
Vallejo, Cal. (Mare Island Navy Yard).	Do.
Farallon Islands, Cal	Do.
San Luis Obispo, Cal	Commercial.
Point Arguello, Cal	U. S. Navy.
Santa Barbara, Cal. (Hotel Potter).	Commercial.
Sacramento, Cal	Do.
Los Angeles, Cal	Do.
Examiner	Do.
San Pedro, Cal	Do.
Avalon, Catalina Island, Cal. (3 stations).	Do.
San Diego, Cal	U. S. Navy.
Alaska.	
Cordova	U. S. Navy.
Dutch Harbor	Do.
Unalga[1]	Do.
Pribilof Islands	Do.
Kodiak	Do.
Sitka	Do.
Ketchikan	Commercial.
Juneau	Do.
Nak Nek	Do.
Karluk	Do.
Kogginung	Do.
Chignik	Do.
Nushagak	Do.
Clarks Point	Do.
Circle City	U. S. Army.

Name and location of station.	Character of station.
UNITED STATES—con.	
Alaska—Continued.	
Fort Egbert	U. S. Army.
Fairbanks	Do.
Fort Gibbon	Do.
Kotlik	Do.
Nome	Do.
Nulato	Do.
Petersburg	Do.
Fort St. Michael	Do.
Wrangell	Do.
Hawaiian Islands.	
Honolulu	U. S. Navy.
Nawaliwili, Kauai	Commercial.
Lahaina, Maui	Do.
Kawaikae	Do.
Kuanakakai	Do.
Guam.	
Guam	U. S. Navy.
Philippine Islands.	
Cavite	U. S. Navy.
Olongapo[2]	Do.
Jolo	Insular government.
Zamboanga	Do.
Malabang	Do.
Manila	U. S. Army.
Corregidor Island	Do.
Fort Frank	Do.
Fort Drum	Do.
Fort Wint	Do.
Fort William McKinley	Do.
Great Lakes.	
Buffalo, N. Y	Commercial.
News Building	Do.
Erie, Pa	Do.
Ashtabula, Ohio	Do.
Cleveland, Ohio (2 stations)	Do.
Toledo, Ohio	Do.
Detroit, Mich. (2 stations)	Do.
Detroit, Mich. (1 station)	Experimental.
Detroit Journal	Commercial.
Port Huron, Mich	Do.
Bay City, Mich	Do.
Saginaw, Mich	Do.
Mackinac Island, Mich	Do.
Harbor Beach, Mich	Do.
Ludington, Mich	Do.
Isle Royal, Mich	Do.
Grand Haven, Mich	Do.
Benton Harbor, Mich	Do.
Chicago, Ill	Do.
Congress Hotel	Do.
Milwaukee, Wis. (2 stations)	Do.
Wapuca, Wis	Private and commercial.
Manitowoc, Wis	Commercial.
Scandinavia, Wis	Private and commercial.
Sault Ste. Marie, Mich. (2 stations).	Commercial.
Marquette, Mich	Do.
Frankfort, Mich	Do.
Manistique, Mich	Do.
Calumet, Mich	Do.
Duluth, Minn. (2 stations)	Do.
Grand Marais, Minn	Do.
Interior.	
Fort Leavenworth, Kans	U. S. Army.
Fort Riley, Kans	Do.
Fort Omaha, Nebr	Do.

[1] Projected.

[2] Under construction.

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APPENDIX B.

A DISCUSSION OF WAVE LENGTHS AND INTERFERENCE, WITH SPECIAL REFERENCE TO WAVE LENGTHS MENTIONED IN THE INTERNATIONAL RADIO CONVENTION OF 1906.

[By Lieut. Commander D. W. Todd, United States Navy.]

RECEIVING ONLY INTERFERRED WITH.

Any number of stations may send together in a given area, or any number may receive together. The interference of which so much is spoken is experienced by an operator trying to receive from one station while the signals from another are coming in at the same time, jumbling the dots and dashes of the two messages together. The greater the number of stations, the greater the confusion. If the signals from two stations which are interfering are of different pitch, a trained operator can read those of one pitch and ignore those of the other. If the desired signals are coming in on a certain wave length and the interfering signals on another, it is possible, under certain restrictions, to so set the receiver (tune it sharply for the wave length desired) to hear the desired signals and cut out the others, or so reduce the strength of the latter as to make them negligible.

COMPARISON BETWEEN WAVE LENGTHS AND TELEPHONE WIRES.

The analogy between the use of different wave lengths for radio communication and the use of several wires for several pairs of telephonic communications is not complete. The ether is more properly one trunk line connecting all stations on which, by means of special apparatus and careful adjustments, multiplex telephony is possible. Every wave length does not mean a possible exclusive wire for conversation between two persons. For a "pure and sharp" wave it would be subject to the following considerations: (1) With the average high-grade apparatus, two signals of equal intensity must differ in wave lengths by 10 per cent to enable one to be received and the other cut out by the adjustments of the receiver. (2) If the interfering signals are considerably louder or stronger than the signals which one wishes to receive, due to the power of the interfering sending set or its relatively short distance away, a greater difference of wave length than 10 per cent is necessary, which difference depends on the relative intensity of the signal desired and the interfering signal; the greater the difference in wave length between the signal desired and the stronger interfering signal, the greater the possibility of eliminating the latter

VARIOUS CONSIDERATIONS INVOLVING WAVE LENGTH.

The shorter the wave length used, the easier it is to get the 10 per cent difference of wave length and the greater the number of communications that can go on in a certain region using a certain range of wave lengths.

The higher the power of the apparatus, the longer the wave lengths which it can use readily, i. e., short wave lengths are most efficient for low-power sets and communication over relatively short distances, say, up to 200 miles.

Long waves are necessary for sending over land and for sending a great distance over sea by day.

Long waves not only imply, generally, medium or high power sets, but require a greater spread of aerial wire aloft in order to radiate them efficiently. Hence it is more costly to use long waves. The average commercial set is not costly.

Height of aerial increases range of a station both for sending and receiving, irrespective of power.

SUITABILITY OF TWO WAVE LENGTHS FOR WORK WITH SHIPS.

Since short wave lengths are suitable for low powers and can be more readily cut out, and since low powers naturally cause less interference than high powers, and since the ordinary ship set is a low-power set, the maximum of immunity from interference is obtained by using low powers, short wave lengths, and choosing two that are quite far apart. Three hundred meters is a wave length easily obtained by any ship except the smallest. In fact, most ships nowadays use a longer wave length. Both 300 and 600 meters are easily obtained by a low-power shore station, with sufficient range for communicating with ships passing within 200 to 300 miles. The range of these shore stations working over sea would be much greater if it were not for the fact that short waves suffer much more from absorption by the daylight than do the longer waves, i. e., to cover great distances by daylight one must use long waves.

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Wave lengths of 300 and 600 meters were chosen as being sufficiently far apart to permit the establishment of shore stations within a reasonable distance of one another. If fitted with average apparatus, stations about 100 miles apart, using different wave lengths, one 300 and one 600, can work positively without mutual interference. With high-grade apparatus the stations could be nearer. It must be remembered that these stations are operated for communication with ships only, and while the receiving by a shore station on 600 meters would not be interfered with by the sending of the next shore station on 300, the position of a ship sending with reference to a shore station receiving must be considered. The greater the difference in wave length between that of the station from which it is desired to receive and the interfering station, the closer the interfering ship or station may be to the station trying to receive without preventing the receipt of the messages desired. To avoid possible interference from passing ships, the Berlin convention requires ships to send, ordinarily, only to the nearest shore stations and to use the least amount of power necessary to effect satisfactory communication. The coast station likewise reduces its power.

COAST STATIONS NOT LIMITED TO TWO WAVE LENGTHS.

"Nevertheless each government may authorize the use of any coast station of other wave lengths for the purpose of providing a long-distance service, or a service other than that of general public correspondence." At present the Navy is installing at all stations where transmitters of more than ordinary power are working two kilowatt sets for communication with ships within 200 or 300 miles using short wave lengths.

SHORE STATIONS OTHER THAN COAST STATIONS RESTRICTED ONLY BY GOVERNMENT RANGE OF WAVE LENGTHS.

Stations not engaged in general public service under the rules of the Berlin convention would not be restricted to 300 and 600 meters, nor would they be required to pay any attention to those wave lengths except in case their working should interfere with the coast stations open for international business.

WIDE RANGE OF WAVE LENGTHS RESERVED FOR THE GOVERNMENT.

Leaving aside the question of radiotelegraphy being more important to the Government than to commerce, and the unanimous agreement of foreign nations to reserve wave lengths from 600 to 1,600 for Government use, the wider the range reserved for the Government, the more chance Government installations have not only to increase the number of communications between its units in a given area but to eliminate commercial interference by choosing wave lengths far removed from those being used by neighboring commercial installations. At present the Navy standard calling wave length is 1,000 meters, which is practically in the middle of the Government's range (those chosen with the hope and expectation that the Berlin convention will finally be ratified). It is a little nearer 600 than 1,600, because it is easier to cut out a short wave than a long wave. In other words, a ship of the Navy at a given place would need only 400 meters difference of wave length to cut out an interfering commercial message near the lower half of the Navy's reservation of wave lengths and might need 600 meters to cut out such a message if the interfering signal were sent on a long wave. The ability of Government stations to use wave lengths far removed from those in use by commercial stations, protects mutually both classes of stations from each other and the advantage is equal.

ABILITY OF STATIONS TO CHANGE TRANSMITTING WAVE LENGTH READILY.

On page 129 of the hearing before the Subcommittee of the Committee on Commerce, of the United States Senate, March 1, 1912, it is stated:

"It will thus be evident that while two or more ships can successfully work two or more coast stations without interference if allowed to make their own selections of wave lengths so as not to interfere, it will not be possible under the Berlin convention regulations, as this requires the use of a definite and unvarying wave length by each station. As to what would happen in New York Harbor, where a number of stations are established at present, if compelled to work on the prescribed wave lengths—all on one or the other of the two—can best be judged by the character of conversation that results when one's telephone conversation is broken into by the exchange putting in a third party."

The inference is that ships and stations are at present fitted so that they can send any one of a certain range of wave lengths at short notice. While sets of the most modern type do permit this, especially those ordered for the Navy, the ordinary com-

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mercial ship and shore station set is more or less inaccurately adjusted for sending one single wave length or band of wave lengths with no provision whatever for changing the wave length or "tune" on which the signals are sent. Receivers, on the other hand, can be very quickly and easily adjusted to any wave length over a wide range. This is the case six years after the Berlin convention was signed, but it is proposed to require stations to be able to send on two or more wave lengths, the matter to be taken up at the London convention. The Berlin convention regulated radiotelegraphy as they found it at that time, and the ratification of the Berlin convention and any legislation for regulation of radiotelegraphy must deal with the subject as we find it to-day, i. e., while it is recognized that a tremendous difference would result from requiring every station, ship and shore, to have high-grade apparatus furnished by certain manufacturing companies, the rights of the greatest operating companies can not be entirely ignored. Certain improvements of their apparatus will be necessary in any event, but to require quick-change features for all transmitters would mean to legislate a great deal of commercial apparatus out of existence. It is extremely difficult for the Navy Department to find the money to modernize quickly its installations and to fit all transmitters for quick change of sending wave length.

OPERATION OVER LAND

In the hearings the representatives of certain commercial interests frequently refer to the use of radiotelegraphy for overland communication, and it has been stated that they propose to compete with land lines between important points, and have had some negotiations with railroads for breakdown service—when land wires are down through stress of weather or ordinary telegraphic communication is interrupted by strikes. Reference to this working overland is usually connected with the subject of the use of two wave lengths only, i. e., the coast-station wave length of the wireless convention, 300 and 600 meters, and the idea of the wireless confusion in a large city like New York, where a number of commercial concerns are working. It is well known that long wave lengths are necessary for working overland, and there is nothing in the Berlin convention or in pending legislation which would prevent this overland work, provided that the work of stations open to public business with ships at sea or that of Government stations would not be interfered with. The use of wave lengths above 1,600 meters would minimize the chance of interference with the short-wave work of coast stations and ships.

SITUATION IN AND AROUND A LARGE SEAPORT LIKE NEW YORK.

Attempt has been made to bring out with emphasis at the hearings that a number of stations can work together within a relatively small area without interference only under one of the following conditions: (1) That all stations use low power, are as far from each other as possible, and use wave lengths as far apart as possible; (2) that if much power is used in sending, the stations must observe a division of time, i. e., one must not send while others are trying to receive from a distant station; (3) that each station is provided with a heterodyne receiver, promised in 1908 when this subject of ratification was under consideration and now said to be developed by the National Electric Signaling Co., which receiver, should it become a commercial possibility, would have to be purchased from that company. Should this instrument be perfected, all stations in congested areas would have to have them, because the stations provided with them would not have to pay much attention to the transmitting wave lengths used except to keep them definite (sharp and pure) and constant. They would be more or less independent of the length of the wave and it would not have to be chosen with reference to those used by surrounding stations—that is, chosen with much care. A very slight difference would suffice.

D. W. TODD,
Lieutenant Commander, United States Navy.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 583.

MINING EXPERIMENT STATION, AUBURN, CAL.

APRIL 20, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FOSTER, from the Committee on Mines and Mining, submitted the following

REPORT.

[To accompany H. R. 22080.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 22080) to establish a mining experiment station at Auburn, Placer County, Cal., to aid in the development of mineral resources of the United States, and to undertake any investigation or operation for the health and safety of persons employed in mining, quarrying, metallurgical, and other mineral industries, and for other purposes, having had the same under consideration, respectfully recommend that it do pass.

This bill is a substitute for H. R. 17033, which was introduced for identically the same purpose.

The bill is as follows:

[H. R. 22080, Sixty-second Congress, second session.]

A BILL To establish a mining experiment station at Auburn, Placer County, California, to aid in the development of the mineral resources of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, established at Auburn, Placer County, California, a mining experiment station which shall be under the supervision, management, and control of the Bureau of Mines.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint as the superintendent of said mining experiment station one expert mining and metallurgical engineer, at a salary of four thousand dollars per annum; one chemist, at a salary of two thousand five hundred dollars per annum; and such other employees as he may deem necessary to carry out the provisions of this act; and for the purpose of inaugurating and maintaining the said mining experiment station, including the payment of salaries, purchase of equipment, supplies, expenses of travel, payment of rent, and other expenses of every sort incident thereto the Secretary of the Interior is authorized to expend annually a sum not exceeding twenty-five thousand dollars.

SEC. 3. That it shall be the province and duty of said mining experiment station, under the direction of the Bureau of Mines, to conduct inquiries and scientific investigations concerning the mining, preparation, treatment, and utilization of ores and other mineral substances, with a view to improving health conditions, increasing

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safety, efficiency, economic development, and the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries, and as will facilitate the proper and efficient development of the resources of the public domain, and to disseminate information concerning these subjects in such manner as will best carry out the purposes of this act.

SEC. 4. That nothing in this act shall be construed as authorizing the Bureau of Mines, or any employee of said bureau engaged in the work herein provided for, to undertake any investigation or operation in behalf of any private party, except for the health and safety of persons employed in the mining, quarrying, metallurgical, and other mineral industries; nor shall any of the regular employees of said bureau engaged in such investigations have any personal or private interest in any mine or the products of any mine under investigation.

This bill is introduced for the benefit of the mining interests of California, and the Government generally; and to look after the health and safety of the miners. The Sacramento Valley Development Association at a meeting held at Sacramento, Cal., on February 17, 1912, memoralized Congress upon this subject as follows:

Whereas House of Representatives bill No. 17033, introduced by Hon. John E. Raker, entitled "A bill to establish a mining experiment station at Auburn, Placer County, Cal., to aid in the development of the mineral resources of the United States"; and

Whereas California leads all other States in the value of its mineral products, which for the year 1909 amounted to approximately $83,000,000, in 1910 $88,000,000, and in 1911 $90,000,000; and

Whereas the proposed experiment station is in nowise a local matter, but is calculated to develop and improve the mining industry of the entire country and provide a greatly needed and exceedingly important educational opportunity to all persons interested in the mineral industries; and

Whereas Auburn, Placer County, is centrally located with reference to the great mining districts of the Pacific coast and very close to the city there are extensive deposits, including gold (quartz and gravel), ores of copper, iron, manganese, anomite and silver, galena and bizmuth, and other minerals, such as granite, limestone, porphyry, marble, stentite, magnesite, borytasper, sclemite, asbestos, talc, kaolin, pottery clay, ocher, and quartz, suitable for the manufacture of glass: Therefore be it

Resolved, That the Sacramento Valley Development Association, in regular meeting assembled, this 17th day of February, 1912, does indorse said House bill No. 17033 and urges upon Congress the adoption of this bill as a matter of rendering material assistance to one of the greatest of the country's industries.

The above resolution was unanimously adopted at the regular monthly meeting of the Sacramento Valley Development Association held February 17, 1912.

O. H. MILLER, *Secretary*.

The Nevada City Chamber of Commerce, of Nevada City, Cal., have memorialized Congress upon this subject as follows:

MARCH 31, 1912.

Hon. JOHN E. RAKER,
House of Representatives, Washington, D. C.

DEAR SIR: At a recent meeting of this organization it was brought to the notice of the members that through your good offices a large quantity of valuable publications are being received and placed on the shelves of the headquarters. This matter shows a discriminating appreciation of the needs of this locality and your interest in our welfare. We also note with pleasure that the bill introduced by you for the establishment of a mining laboratory at Auburn, in our neighboring county, has been changed to eliminate the possibility of interfering with the business of our assayers, and in its present form has our complete support. In accordance with a motion at to-day's meeting a vote of thanks was passed to you for your good work, and this letter is to inform you of the said action.

Trusting that you may continue to be successful in your efforts for the people of your district, we remain,

Very sincerely, yours,

NEVADA CITY CHAMBER OF COMMERCE.
W. W. WAGGONER, *President*.
GEO. B. FINNEGAN, *Secretary*.

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The Auburn Chamber of Commerce have memorialized Congress upon this subject as follows:

AUBURN CHAMBER OF COMMERCE,
Auburn, Cal., February 7, 1912.

Whereas a bill entitled "A bill to establish a mining experiment station at Auburn, Placer County, Cal., to aid in the development of the mineral resources of the United States, and for other purposes" (H. R. 10733), has been introduced in the House of Representatives at Washington; and

Whereas the mineral production of California for the year 1909 amounted, in round numbers, to $83,000,000; in 1910, $88,400,000; and to upward of ninety millions in 1911; and

Whereas the mountains and valleys of Placer County contain an immense amount of mineral wealth, including gold both in quartz and gravel, ores of copper, manganese, tungsten, chromium, and silver (in the Ophir mining district, close to Auburn), galena, bismuth, and other minerals, such as granite, limestone, porphyry, marble, steatite, magnesite, baryta, spar, selenite, asbestos, talc, kaolin, pottery clay, ocher, and glass sand; and

Whereas Placer County is lately reported by the Census Bureau as being the second county in the United States in the number of producing gold mines, Siskiyou County, Cal., being first; and

Whereas Auburn is on the main line of the Southern Pacific, 126 miles from San Francisco, 657 miles from Los Angeles, and 868 miles from Seattle, thus being easy of access from east, west, and south and as centrally located with reference to the great mining districts of the country as is practically possible; and

Whereas the project is in no way sectional, but calculated to develop the mining industry of the whole Pacific slope and of the entire country; and

Whereas such a station would provide an important educational opportunity for the young men of California and be the means of recruiting a trained force of men to develop the wealth of the country: Therefore be it

Resolved, That the Auburn Chamber of Commerce cordially indorses the said bill and urges upon Congress its adoption, and we also recommend other chambers of commerce and business organizations of the Pacific slope to take similar action; and be it further

Resolved, That copies of this resolution be sent to our Representatives in Congress and to kindred organizations on the coast.

Adopted.

JOHN T. BRAMHALL, *Secretary*.

The San Francisco Call, of California, of date February 19, 1912, speaking editorially upon this subject, says:

NEED OF A SCHOOL FOR MINING PROSPECTORS.

A mining experiment station for California would be a useful and valuable help for the promotion of this great industry, and in that view Representative Raker has introduced a bill in Congress for the establishment in Placer County of an institution of this character.

The Government has always been neglectful of this industry and was with difficulty persuaded to create a Bureau of Mines. Millions are spent annually on the Government Agricultural Department, and we believe this money is profitably used for the common good, but little or nothing is done by national agency to encourage or assist mining. The production of minerals, gold, oil, copper, and other products is one of California's leading industries, and it is properly the subject of scientific examinations and investigations for the ascertainment of the best and safest methods. It is an extremely hazardous trade and hitherto this aspect of the industry has been little regarded.

There is besides a wide field for metallurgical and petrological inquiry. The mountains of California have been explored in a hazardous way by gold seekers, and sometimes they have stumbled on other valuable minerals, but usually by accident.

The fact is that we do not yet know the full metallurgical potentialities of the California mining region, and it is likely that a school for prospectors would bring valuable and unexpected results.

The American Mining Congress, which is composed of the most able and representative mining men of the West, at its recent annual

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meeting in the city of Chicago unanimously passed the following resolution:

Whereas the development of processes of ore treatment capable of handling with profit the vast low-grade deposits and mine dumps of our mining districts is of the greatest importance to the mining industry and to all related industries:

Be it resolved, That it be the sense of the American Mining Congress that the Congress of the United States be, and is hereby, memorialized to provide for the establishment, under the direction of the Bureau of Mines, of a metallurgical experiment ore-testing station or stations for the purpose of devising methods for the extraction of metals from low-grade ores and appropriate sufficient funds for such purpose.

Resolved further, That the officers of the American Mining Congress draft a suitable bill providing for the proper carrying out of this resolution, and that copies of the bill and of this resolution be forwarded to the President of the United States and each Senator and Representative; and that the officers of the American Mining Congress use all honorable means to the end that such a bill may become a law, in view of the increasing importance and complexity of the mining and metallurgical industries, the deplorable waste in mining under present methods, and the great need of trained men to aid in improving these conditions and in developing greater safety and efficiency.

Be it resolved, That the American Mining Congress, now in session at Chicago, urges the Congress of the United States at Washington to provide for aid and cooperation in the maintenance of mining schools in the several States in a manner analogous to that which has been done in behalf of agriculture.

Be it resolved, That the members of the American Mining Congress and the friends of the mining industry throughout the country are hereby urged to cooperate in securing the proper legislation necessary to carry above purpose into effect.

There are many other organizations of business men throughout the West that are and have for some years past been very urgently appealing to Congress for relief in the manner provided by this bill. It should be remembered that while the National Bureau of Mines is doing a splendid work in its limited field and in a limited way, yet its energies are thus far practically entirely devoted to coal-mining industries. There has been no recognition thus far of the metalliferous mining industries of the West, and it is believed that that industry is entitled to consideration by the Government.

This bill was referred to the Department of the Interior for consideration, and the report of the Secretary of the Interior thereon is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 1, 1912.

Hon. MARTIN D. FOSTER,
Chairman Committee on Mines and Mining,
House of Representatives.

DEAR SIR: Replying to your letter of March 21, asking for my opinion on House bills 22080, 22081, and 22088, relative to the establishment of mining experiment stations in the States of California, Colorado, and Utah:

The purpose of these bills is to provide for "inquiries and scientific investigations concerning the mining, preparation, treatment, and utilization of ores and other mineral substances, with a view to improving health conditions, increasing safety, efficiency, economic development, and the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries, and as will facilitate the proper and efficient development of the resources of the public domain."

This purpose and the main features of these bills meet with my approval.

Such investigations will be helpful in the development of mining on the public lands of each of the States, both within and without the national forest reserves; and the necessary expenditures for conducting these investigations will be justified more than under ordinary conditions, for the reason that in these States the Government is itself largely interested in any and all investigations looking to the proper development of the mining and metallurgical industries.

I believe, however, that in each of these bills, instead of locating specifically in each State just where the experiment station is to be established, it would be wiser to leave the question of specific location to the department, so that the investigations might be conducted from time to time at whatever point there proved to be most

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need of investigations and where the investigations might be carried on under the most favorable conditions. Indeed, a movable location for each station might enable the department to carry out the purposes of these bills with greater economy and efficiency than could be done under any other plan.

Under the provisions of these bills there can be no possible conflict of interests between the investigations for which they provide and the work of private mining and metallurgical engineers and chemists.

Very respectfully, WALTER L. FISHER, *Secretary*.

The report of the Secretary, as will be observed from the above, is favorable. There is a suggestion that it would be wiser to leave the question of the specific location of the station to the Department of the Interior rather than fixing it at any particular place. The reason your committee has not followed that suggestion is because it is believed that in designating the place which is approved by various mining organizations and mining men the judgment and wishes of these should be considered in that respect.

Within a radius of 100 miles from the proposed location there is practically every known combination of gold, silver, lead, copper, zinc, iron, tungsten, and other mineral-bearing ores, and that a great deal of it is what is known as low-grade refractory ores—that is, ore which is difficult to treat. There are very large deposits and a great variety of it there, and the mining interests of the State have felt that there ought to be an experimental mining station in the mining regions, in charge of skilled chemists and metallurgists, for the purpose of not only analyzing and testing those ores but to devise, if possible, new means and processes of treatment—means and methods of aiding the mining industry and saving from waste and conserving the metal resources of the country and making the very valuable mineral substances in this region available for the use and general welfare of the Nation.

On behalf of the mining industry of the Pacific coast it was shown to your committee that the welfare of this Nation is very much dependent upon and affected by the conservation and economical production and treatment of the metals of the Western and Pacific Coast States; that the gold and silver, copper and lead, zinc and iron, vanadium and uranium, and other rare metals that are produced in the Sierra Nevada and other mountain regions are really the lifeblood of the business of this country and the basis of our prosperity; that the metalliferous mining industry is being neglected and has been neglected; and that metalliferous mining at the present time is at comparatively low ebb. It is believed by your committee that if the Government could assist in evolving processes of handling low-grade ores—that is, ores running below $10 per ton—thousands of mines would be opened and the wealth of the world would be added to by many hundreds of millions of dollars.

It was shown that there are a large number of valuable substances that can not under the present process be handled at all, and the problem of the rejuvenation and continued prosperity of the mining industry depends upon the establishment of the metallurgical experiment stations at which scientific and practical work along that line can be done.

The mining men of the Pacific coast and Sierra Nevada and other western mountains feel that the Government should take an interest in and assist in finding means of treatment of the low-grade refractory ores and get them into a merchantable condition. That will require

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experiments, expenditures, and skilled expert knowledge of the highest class. They prefer to have experts on the ground there to examine the ores and the metal formations as they exist in nature. The place designated in the bill is located in the center of one of the principal mining and metalliferous portions of the State and is advantageously and suitably located for a mining experiment station.

Auburn is on the main line of the Southern Pacific, 126 miles from San Francisco, 657 miles from Los Angeles, and 868 miles from Seattle, thus being easy of access from east, west, north, and south, and is as centrally located with reference to the great mining districts of the country on the Pacific slope as is practically possible.

The project is in no way sectional, but calculated to develop the mining industry of the whole Pacific slope and of the entire country.

The following shows the amount of money obtained from the sale of public mineral lands from 1901 to 1910, inclusive, and a statement of the mining interests and their past want of consideration:

Proportion of reclamation fund arising from receipts of sales of coal and mineral lands, for the fiscal years 1901 to 1911, inclusive.

Year.	Reclamation fund.	Coal and mineral lands, aggregate.[1]	Coal lands, separate.[1]	Mineral lands, separate.[1]
1901	$3,144,821.91	$362,632.85	$200,116.35	$162,516.50
1902	4,585,520.53	462,723.20	171,641.81	291,081.39
1903	8,713,996.60	790,083.56	486,176.54	303,907.02
1904	6,826,253.59	685,668.65	385,276.97	300,391.68
1905	4,805,515.39	551,976.80	269,458.55	282,518.25
1906	5,166,336.50	799,889.27	523,905.72	275,983.55
1907	7,914,131.71	570,415.76	288,092.82	282,322.94
1908	9,416,875.95	886,942.69	599,920.44	287,022.25
1909	7,755,488.81	792,501.66	471,088.08	321,413.58
1910	7,028,185.73	890,385.91	618,828.04	271,557.87
Total, 10 years	65,357,106.72	6,793,220.35	4,014,505.32	2,778,715.03

[1] A deduction of 5 per cent on account of grants to all reclamation States, except Colorado, for purposes of education or of making public roads, has been made from the total receipts from sales of coal and mineral lands.

A small fraction of 1 per cent for fees and commissions of registers and receivers has not been deducted in preparing this statement.

The funds arising from the sale of public lands and set aside for the reclamation work in the public-land States, as indicated by the accompanying tabular statement, during the 10 years ending June 30, 1910, have approximated $65,357,000. Of this amount, $4,000,000 has been derived from the sale of coal lands, and about $2,779,000 from the sale of other mineral lands, making a total derived from the sale of mineral lands of $6,793,000.

During these 10 years this entire fund arising from the proceeds of the sale of all such public lands, including the $6,793,000 arising from the sale of coal and other mineral lands, has been devoted to the upbuilding of agriculture in the public-land States, and no part of this fund has gone to help the mining industry in any of these States.

During this time the mining industry in the public-land States has fallen far behind agriculture in progressive development. Many branches of the industry are showing the need of extended investigations.

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The question now raised is as follows:

In view of the fact that the great reclamation work of the Federal Government is now under way, that the policies and principles of irrigation in the arid lands are now well established, that private enterprise is now developing numerous similar irrigation projects in each of the public-land States, and that the reclamation work of the Federal Government has now reached the stage at which the income from the sale of water rights will rapidly add to the funds arising from the sale of public lands and available for irrigation purposes, is it not right and feasible that at this time some considerable portion of the proceeds from the sale of mineral lands should, for a time, be devoted to investigations looking to the upbuilding of the mining industry in the several public-land States?

The principle of equity in this proposition has already been well established, in that the proceeds arising from the administration of the public-forest lands in the West have been largely reappropriated for the care and development of the forest lands; and the application of this principle in behalf of the mining industry would have been called for when the reclamation service was established but for the generous desire on the part of all parties in the West that the principle and the policy of irrigation, by both public and private agencies, should be inaugurated and fully established.

Now, however, that this has been accomplished, and that the mining industry in turn is in need of funds for investigations looking to its further development, the principles of right and equity in behalf of the mining industry should receive recognition.

Your committee believes that the welfare of the miner as affects his health and safety and as affects the general welfare of the whole country demands that due recognition and encouragement should be given to the metalliferous-mining industry and the miners of the West and Pacific coast, and recommends the passage of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 584.

COUNCIL OF NATIONAL DEFENSE.

APRIL 22, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOBSON, from the Committee on Naval Affairs, submitted the following

REPORT.

[To accompany H. R. 1309.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 1309) to establish a council of national defense, having had the same under consideration, report the same to the House with the following amendments, and recommend that the amendments be adopted and that the bill as amended do pass:

Page 1, lines 4 and 5, strike out the words "Secretary of War, who shall be president of the council," and insert in lieu thereof the following:

President of the United States, who shall be ex officio president of the council; the Secretary of State, who shall preside in the absence of the President; the Secretary of War.

Page 2, lines 1 and 2, strike out the words "the aid for operations of the fleet of the Navy," and insert in lieu thereof the following:

An officer of the Navy not below the rank of captain to be designated by the Secretary of the Navy.

Page 2, after line 3, add a new section, as follows:

SEC. 2. The chairmen of the several committees of the Senate and House of Representatives herein named shall act as members of the council until their successors have been selected.

Page 2, section 2, strike out the section and add the following:

SEC. 3. That said council shall report to the President for transmission to Congress a general policy of national defense and such recommendation of measures relating thereto as it shall deem necessary and expedient.

Page 2, section 3, at the end of line 11, insert the following:

Provided, That in the time of war said council shall meet only upon the call of the President of the United States.

Page 2, line 10, strike out the words "Sec. 3" and insert in lieu thereof the words "Sec. 4."

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Page 2, section 3, line 12, after the word "*Provided*," insert "*further*."

Page 2, section 3, line 13, strike out the words "except in time of war."

Page 2, section 3, line 14, strike out all after the word "that" and strike out all of lines 15, 16, and 17, and insert in lieu thereof:

The council may summon for consultation at any of its meetings any citizen of the United States, and upon request by the council the Secretary of War and the Secretary of the Navy shall order any officer of the Army, Navy, or Marine Corps to appear before the council for consultation.

Page 2, line 18, strike out the words "Sec. 4" and insert in lieu thereof the words "Sec. 5."

Page 3, line 2, after the word "session," insert the following:

And the necessary expenses of all persons summoned.

The bill as amended reads as follows:

A BILL To establish a council of national defense.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a council of national defense, consisting of the President of the United States, who shall be ex officio president of the council; the Secretary of State, who shall preside in the absence of the President; the Secretary of War, the Secretary of the Navy, the chairman of the Committee on Appropriations of the Senate, the chairman of the Committee on Foreign Relations of the Senate, the chairman of the Committee on Military Affairs of the Senate, the chairman of the Committee on Naval Affairs of the Senate, the chairman of the Committee on Appropriations of the House of Representatives, the chairman of the Committee on Foreign Affairs of the House of Representatives, the chairman of the Committee on Military Affairs of the House of Representatives, the chairman of the Committee on Naval Affairs of the House of Representatives, the Chief of the General Staff of the Army, an officer of the Navy not below the rank of captain to be designated by the Secretary of the Navy, the president of the Army War College, and the president of the Navy War College.

SEC. 2. The chairmen of the several committees of the Senate and the House of Representatives herein named shall act as members of the council until their successors have been selected.

SEC. 3. That said council shall report to the President, for transmission to Congress, a general policy of national defense and such recommendations or measures relating thereto as it shall deem necessary and expedient.

SEC. 4. That said council shall meet at least once in each calendar year, on such date or dates as it shall fix: *Provided*, That in time of war said council shall meet only upon the call of the President of the United States: *Provided further*, That special meetings may be called by the president of the council: *And provided further*, That the council may summon for consultation at any of its meetings any citizen of the United States, and upon request by the council the Secretary of War and the Secretary of the Navy shall order any officer of the Army, Navy, or Marine Corps to appear before the council for consultation.

SEC. 5. That for carrying out the purposes of this act there is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of twenty thousand dollars, to be available until expended, and to be expended upon vouchers signed by the president of the council: *Provided*, That all necessary expenses of the chairmen of committees of the Senate and of the House of Representatives, when called to attend meetings of said council when Congress is not in session, and the necessary expenses of all persons summoned shall be paid from this appropriation upon approval by the president of the council.

This bill is approved by the President of the United States, by the late Secretary of War, by the present Secretary of War, the Secretary of the Navy, and without exception officers of high rank, knowledge, and experience of both the Army and Navy. The council entails practically no cost. A similar council has been established in every other great nation in the world

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The President, in a message to this Congress, says:

COUNCIL OF NATIONAL DEFENSE.

I urge again upon Congress the desirability of establishing the council of national defense. The bill to establish this council was before Congress last winter, and it is hoped that this legislation will pass during the present session. The purpose of the council is to determine the general policy of national defense and to recommend to Congress and to the President such measures relating to it as it shall deem necessary and expedient.

No such machinery is now provided by which the readiness of the Army and Navy may be improved and the programs of military and naval requirements shall be coordinated and properly scrutinized with a view to the necessities of the whole Nation rather than of separate departments.

The late Secretary of War, to whom was referred H. R. 29371, an almost identical bill, states as follows:

WAR DEPARTMENT, *December 16, 1910.*

Respectfully returned to Hon. George Edmund Foss, Committee on Naval Affairs, House of Representatives.

I approve of the provision of this bill and recommend its enactment into law.

J. M. DICKINSON, *Secretary of War.*

The last Secretary of War further stated in a hearing before the committee in part as follows:

I do desire, however, to avail myself of this opportunity to say that I have considered the question and am very heartily in favor of the bill. I think one of the main troubles that we have had is that we have not proceeded upon a comprehensive and uniform plan in the development of our schemes for military defense. What we have done in that line has been largely sporadic, brought forward from time to time upon individual suggestion and reflecting more or less the views of some particular Secretary of War, so far as the Army is concerned, or the Chief of Staff, and there has never been any system of uniform legislation well thought out, planned, thoroughly studied, and proceeded with.

There are great advantages, I think, to be gotten from the establishment of a board of this character. It provides for men of technical information. Then, it has represented upon it both branches of the legislative assembly. If the board shall be created, I believe that they can adopt a plan which will be utilized and that then all legislation will be correlated with that plan. It will proceed then in a systematic way and not run out at tangents, as it does now. That is a general statement, Mr. Chairman, of my views of the advantages of a bill of this character.

The legislation that would be the outcome of an investigation by such a board as this, and recommended by such a board, would command the executive support and the legislative support, and it would command the confidence of the country and it would not be upset from time to time by legislation that would emanate merely from some individual standpoint. I think that it would result in great economy and great efficiency.

The present Secretary of War, in his annual report dated December 4, 1911, states as follows:

The House Committee on Naval Affairs has submitted a favorable report upon a bill to establish a council of national defense. This bill is approved by the President of the United States and the Secretary of the Navy. Its duties are to make practicable the formulation and execution of a consistent and continuing policy of national defense, to help in coordinating the plans of the Army and Navy, and furnish a means of coordinating military and financial questions before submitting to the President and to Congress recommendations for measures of national defense. It is hoped that this bill will receive favorable consideration during the present session of Congress.

The Secretary of the Navy states as follows, referring to a similar bill:

DEPARTMENT OF THE NAVY,
Washington, December 27, 1910.

SIR: I have the honor to acknowledge receipt of your letter of the 15th instant transmitting a bill (H. R. 29371) to establish a council of national defense, and requestin the views and recommendations of this department thereon.

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The proposed bill is regarded as very desirable to the Navy in that it would make practicable the formulation and execution of a consistent and continuing policy of national defense; it would help to coordinate the plans of the Army and Navy and furnish a means of reconciling the military and financial interests before submitting to the President and the Congress recommendations for measures of national defense; and would furnish the President and the Congress a ready means of ascertaining at any time the condition of the Nation for defense.

Favorable consideration of this bill is recommended.

G. v. L. MEYER,
Secretary of the Navy.

CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives, Washington, D. C.

Again, in a hearing before the committee on May 19, 1911, the Secretary of the Navy said in part:

Mr. Chairman and gentlemen of the committee, in war nothing fails like failure. Now, in order to have success we must have efficiency. To have efficiency we must have a definite policy; and to bring about a definite policy, we have to have cooperation and coordination of Congress, the Army, and the Navy. To bring about this cooperation, we have to have an intelligent understanding.

Now, this national council of defense bill is made up of two Cabinet officers, four Senators, four Congressmen, two Army officers, and two naval officers. It would seem that this council would tend toward and result in an intelligent understanding and assist in cooperation of Congress to a definite policy. I can not help feeling, after due consideration, that this council would result in a definite policy and would encourage cooperation, and would increase efficiency as well as economy.

The President, as Commander in Chief of the Army and Navy, should be a member ex officio of this board. I say this without consulting the President. I do not know whether or not that has come to the attention of the committee.

Again, the Secretary of the Navy, in a hearing before the committee on March 1, 1912, said in part:

We feel that this council of national defense will be an additional benefit to the Navy, to the country, and to the Nation. It will, in a way, be a vehicle between the department and Congress. There will be representatives in this council from the Congress and from the departments of the Army and Navy, and they will be in touch with exactly what the future requirements may be in the Army and the Navy, and it will enable them to be in council with the two departments.

In that way it will keep the departments and Congress in touch with each other and encourage continuity of policy, which is of vital importance to the best results. I will not go into the details of the bill, because it is all in the hearing which took place May 19, 1911, when Secretary of War Dickinson, the Secretary of the Navy, Admiral Mahan, Gen. Wood, Admiral Wainwright, Gen. Wotherspoon, president of the Army War College, and a number of officers from both the Army and Navy were present. The departmental heads of the Army and Navy are in sympathy with it and the President is also in sympathy with it.

In other countries—in England, and particularly in Germany and Japan—they are working out in advance policies for the next few years. If Congress were more in touch with the aims and objects of those two departments and felt that they thoroughly understood them, they could in turn inform and keep informed, not only in an intelligent way, but in a sympathetic way, the Representatives of Congress, and thus be of great benefit in furthering proper and necessary legislation. I hope the committee will give this matter further consideration.

Sections 1 and 2 of the bill establish a council of national defense, composed of six officials of the legislative branch of the Government, four officials of the executive branch, and four technical and expert officers of high rank, two in the Army and two in the Navy. The officials of the legislative branch are the four chairmen of the two service committees, Naval and Military, of the Senate and the House of Representatives, and the two chairmen of the Appropriation Committees of the same.

The officials of the executive branch of the Government are the President, the Secretary of State, and the two Cabinet officers at the

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head of the two services, Naval and Military. The four technical officers of the Army and Navy are those charged with duties pertaining to high matters of national defense.

Thus in its composition the council brings together the officials charged with responsibility and most competent to pass on questions of national defense and insures unity, continuity, and cooperation heretofore impossible and the lack of which has entailed added expense and lowered efficiency in all branches of national defense.

Section 3 makes it the duty of the council to report a general policy of national defense and to recommend measures for carrying out the same. Under present conditions there is no authoritative official or body of officials to perform this important function. The lack of a definite policy at the time of and during our past wars has always entailed enormous outlay of treasure, loss of life, and at times has cost us victory on the battle field.

The necessity of having a definite policy worked out in advance of war has become of greater and greater importance in the conduct of modern war. Indeed, it is not overdrawing the facts to say that victory in modern war has invariably gone to the side of the nation with its policy the best determined.

The experience of these modern wars has caused all important nations to develop a council of national defense with duties similar to those prescribed in this section. This is noticeable in the cases of the two last wars, the Russo-Japanese War and the Boer War. Both Russia and Great Britain found the lack of a definite, carefully prepared policy chiefly responsible for their reverses.

The composition and duties of the similar councils abroad are as follows:

For Great Britain, including India, the name of the council is "The committee on imperial defense."

GREAT BRITAIN, INCLUDING INDIA.

The committee on imperial defense.

The defense committee, assisted by a small secretariat, will deal with questions of national defense and will foresee imperial requirements.

The prime minister, who is president of the committee, and the secretarial staff are the only permanent members of the defense committee. The other officials who attend the meetings do so by invitation, and invitations are sent out for each meeting.

The members who ordinarily attend the meetings of the defense committee are: The prime minister, the secretary of state for foreign affairs, the secretary of state for war, the secretary of state for India, the chancellor of the exchequer, the first lord of the admiralty, the first sea lord of the admiralty, the director of naval intelligence, the chief of the general staff, the director of military operations, Lord Esher, and Gen. Sir John French. Other members of the cabinet and officials who possess special knowledge on subjects under consideration are asked to attend meetings of the committee from time to time.

The secretariat, or, as it is sometimes called, the "permanent nucleus," was appointed with a view to insure continuity of work and that a record of work done might be kept for the information of succeeding committees.

The following statements, made in the House by the present and late prime ministers on August 2, 1906, will show clearly the status and functions of the committee:

Sir H. Campbell-Bannerman said:

"The defense committee act as the expert advisers of the Government in regard to technical questions.

"It was for the cabinet to determine their political policy, and then it was for the expert members of the defense committee to furnish them with the information as to how they were to carry out their policy. Questions of high policy were beyond the ken of the committee of imperial defense. It was no part of the duty of the committee

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to pronounce an opinion on the general policy of the Government, either naval or military."

Mr. Balfour said:

"The committee was summoned by the prime minister to assist him in dealing with matters outside the purview of a single department, and it was the prime minister's business to choose which heads of departments he would summon, and what experts were to be brought in * * *. There was a natural elasticity in the committee of defense depending on the problems to be dealt with, and the prime minister of the day must decide for himself whose advice he would take." (Organization and Equipment, Lieut. Col. Brunker.)

FRANCE.

Decree relative to the establishment of a supreme board of national defense.

PARIS, *April 3, 1906.*

ARTICLE 1. A supreme board of national defense is instituted for the examination of all questions requiring the cooperation of two or more ministerial departments.

ART. 5. The supreme board of national defense shall be composed of: The president of the board of ministers, presiding; the minister of foreign affairs; the minister of finance; the minister of war; the minister of marine; the minister for the colonies.

ART. 6. The chief of staff of the army, the chief of staff of the navy, and the president of the consultative committee for colonial defense shall be present at meetings of the supreme board with deliberative voice.

GERMANY.

In order that the whole undivided strength of the fleet may be successfully employed in the destruction of the enemy and in defending our coasts, it is necessary that the army and the navy should have a common commander in chief, whom the German Empire possesses in His Majesty the Emperor. The navy, as well as the army, must receive its instructions from the great headquarters, and this will be taken into consideration in the composition of the latter.

* * * * * * *

In view of the importance of the German fleet at the present day and of the still greater importance which it will have in the future, the chief of the staff of the navy and the chief of the naval cabinet with their staffs will in future be attached to the headquarters staff in order to insure the cooperation of the navy with the army.

* * * * * * *

To some extent the two services already work together in peace time. This is the case as regards the enlistment of sailors by the military administrative circles, the joint action of the admiralty, the war office, and the general staff of the army on mobilization, the defense of our coasts, and so forth; but these joint duties are of little assistance in making the services better acquainted with one another, since they affect but a small number of officers of each branch.

Something has been effected in this direction by the practice, recently introduced, of appointing naval officers to the army staff, and vice versa; of detailing joint committees of naval and military officers; and of selecting officers to attend the maneuvers of the sister service; but much more than this is required to instill into all ranks of the army and of the navy the necessity for combined action and mutual support in war. (The Duties of the General Staff, 1905, Gen. Bronsart von Schellendorff.)

The great successes of Germany in the wars of 1866 and 1870 were chiefly due to the policy and preparations resulting from the cooperation of the civil and the military embodied in Bismarck, the statesman, and Von Moltke, the soldier.

RUSSIA.

Board of national defense.

(This and a great general staff were created by the Emperor of Russia as a result of the experience of the Russo-Japanese War.)

The board of national defense is charged with the study of questions which relate to the security of the Empire. It acts under the direct orders of the Emperor, and is made up of a president and six permanent members—all named by the Emperor—but

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has also a certain number of other members, some on account of the offices which they hold, as the ministers of war and of the navy, the chief of the general staff, the chief of the great general staff of the navy, and the inspectors of the army, and others because of their personal knowledge or because of the needs of the service as, for example, ministers, commanders of army corps, etc.

The board of national defense has the following duties:

(*a*) Study of general measures so that a fixed plan may be determined upon by the ministers of war and of the navy in order to assure the development of the military power of the Empire in conformity to the political ends which it is desired to accomplish.

(*b*) To watch that these measures are carried out as soon as they have the approval of the Emperor.

(*c*) Study of propositions emanating from the military ministers and conforming them in order that all resources may be employed in time of war and unification and direction of all preliminary measures.

(*d*) Study of modifications which it is desirable to make in the plans of the two military ministers.

(*e*) Study and solution of the questions of the fitness of the different branches of the administration and the differences which exist in them from the standpoint of national defense.

The board of national defense has no executive power, but is limited to recommendations to the Emperor. The execution of measures which receive the approval of the Emperor is in charge of the minister of war. The president has direct communication with the Emperor, and speaks as his mouthpiece when he presides in the board. Said president forms a part by virtue of his office of the imperial council and of the council of ministers. He has the right to ask from the various ministers anything which can contribute to the work of the board, and receives from the minister of war, of the navy, and of foreign affairs information relating to the national defense. All the deliberations and actions of the board are considered as state secrets. (Revista Cientifico-Militar y Biblioteca Militar, 25 Septiembre, 1905.)

AUSTRIA-HUNGARY.

In Austria-Hungary there is no minister of the navy. The minister of war of the monarchy has in his charge questions relating to the navy. On this account the bureaus of the navy constitute a section attached to the ministry of war. (L'Etat Militaire des Principales Puissances Etrangeres en 1902, Lauth.)

ITALY.

By a decree of the 16th of July, 1897, the Supreme Mixed Commission for the Defense of the Empire was organized. This is charged with the duty of giving advice on all important questions concerning the defense of Italy. The Duke of Genoa is president; the members are: The admiral president of the superior council of the navy, the generals designated to command the various armies in case of war, the admirals designated to command the fleets, and the chief of the general staff of the army and of the navy. The generals, the commanders of army corps, the inspectors general and admirals, when it appears that their presence will be useful, may be invited to attend the meetings of the commission for consultation only. (L'Etat Militaire des Principales Puissance Etrangeres en 1902, Lauth.)

SPAIN.

Spain has a consultative board for war which is concerned with the large questions in reference to preparation for war, etc. The organization and the composition of this board are regulated by decisions made in the council of ministers. (L'Etat Militaire des Principales Puissances Etrangeres en 1902, Lauth.)

JAPAN.

The supreme military council.

This was created in 1898 as the highest advisory body on naval and military matters to the Emperor. It was made up of six members, three army and three navy officers of the highest rank.

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The supreme council of war.

This is a special office created on the eve of the outbreak of the late war, and may be regarded as the Emperor's advisers and staff officers on all important matters pertaining to war. The members of the supreme military council, ministers of war and of the navy, chiefs of the general staff, and of the naval staff board are entitled to membership by virtue of their official positions. (Japan Year Book, 1907.)

In the hearings before the committee the last chairman of the Committee on Military Affairs, Mr. Hull, made a statement in part as follows:

A board of the kind provided for would be of great benefit to the country at large and would enable the Government to pursue a settled policy, and when that policy should be changed it would only be after very mature deliberation.

I heard the question of my colleague from Iowa [Mr. Dawson], and I can not see any objection to creating a board of this character whose action is simply advisory. It can not have any effect until Congress acts, the same as it did with the Endicott Board, the same as it does with plans for improvements at different institutions like the Military Academy and the Naval Academy. Congress must first adopt its recommendations.

One great advantage of having a board of this character is, to my mind, to have some definite policy decided on. I do not know whether the Navy Department changes its mind very often or not, but the War Department changes its mind very often, and we are pushed into a line of legislation under one Chief of Staff, and when the head of the bureau changes or a new Chief of Staff comes in he urges sometimes a different line from that urged by his predecessor.

Our whole system would be steadied if there was a board composed of these experts of the Army and Navy and the Members of Congress who have charge of these matters. In my judgment, the whole line of legislation would be steadied and benefited by the creation of this board. We can not conceive that there is any constitutional objection to creating it, and, as it is not a board that has absolute power to go ahead and do things, I can not conceive of any objections to both the experts and Members of Congress being joined together to get information. Personally, I think it is a splendid bill, and I should like to see it adopted. It will not cost us much; it will be of benefit to the Government; and we do need something in the way of a permanent policy of defense, and then let Congress carry it out; or, if the time comes to change it, we do need more than one man's technical ideas, no matter who he may be, before we can change it. You will never succeed in getting a continuous line of work unless you have some permanent authority, that Congress will have confidence in after it has been tested, or abolish it if you do not have confidence in it.

I do believe in the bill, and I believe it is one of the best things you can do to get a board that can have some permanency and adopt some permanent policy and quit this makeshift we have been suffering from.

I do want to see this act put in some shape where the vast sums we expend will be beneficial for the country as a whole, not only for this year, but growing up each year, with better results each year for our defenses, and getting results for the money we appropriate for the national defense. We are not doing it now. There has been a wonderful advance in the Army for the last four or five years. We are getting a better system all the time, and yet it has not that steadiness of purpose it ought to have and will have, in my judgment, if we adopt this bill.

Maj. Gen. Leonard Wood, United States Army, Chief of the General Staff, made a statement in part as follows:

I believe thoroughly in the bill. I consider it to be the most important measure for military efficiency that has come up for consideration since I have had anything whatever to do with my present duties in Washington, and probably one of the most important that has ever come up. My reasons for making this statement so strong are as follows: If we succeed in having this bill enacted into law, it means that we shall have a committee consisting of the elements directly interested in the preparation and maintenance of national defense. It will insure the military proposition, and by "military" I mean the propositions advanced by the naval and military authorities, being considered by a committee in which both Houses of Congress and the President's Cabinet are strongly represented, and it means that matters which are approved by this committee will be presented to Congress under an indorsement guaranteeing to that body that four of its own Members and two officers of the Cabinet, all civilians, have very carefully considered the measure and believe in it and recommend its enactment.

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It is well known to all of us that officers of the Army and Navy are generally looked upon as being a little overenthusiastic in military matters, and I believe that the effect of a joint committee of this sort taking up and considering questions of policy will, if it approves them, bring these matters before Congress in a much stronger way than we could possibly do it ourselves. It means, moreover, that we shall be able to establish and maintain a general military policy. The committee will change its membership gradually. We shall be able to adopt a general policy and carry it out from one administration to another without the radical changes which occur at the present time.

A committee of this sort will insure a continuity of policy and a harmonizing, I think, of the military policy of the Government; it will provide a body in which the civilian element outnumbers the military, and whatever it approves is bound, I think, to appeal very strongly to Congress. I think it will be safe, sane, and strong for the betterment of the national defense.

Admiral Richard Wainwright, United States Navy, late aid for operations of the fleet, made a statement in part as follows:

I am entirely in favor of the objects of the bill. I believe they will promote both efficiency and economy. With the same amount of money we should get more efficient military and naval forces; or for the same efficiency we should do it for less money. I think the object is to better bring before the Members of both Houses the requirements of the country, and then they would determine how much their resources were to be turned into preparation. I think, after the first formulation of the policy, there would not be a necessity of many meetings. Of course from time to time the circumstances of the country would change, its foreign relations, and so forth, that might require changes in the broad policy. And, of course, each year the question of how much should be recommended to do in that year—that is, broadly, between all the services taken together—would have to be largely determined by the Members who are representing the Senate and House.

I can not see why there should be any emergency meetings of this council. Of course, it would be better if the council could meet a little prior to the session of Congress, as Mr. Padgett suggested, because they are very busy when Congress meets, and it would take a little time to carry it out. The English imperial council of defense was organized in 1895.

Mr. HOBSON. Right there, will you explain why they came to organize that council in England?

Admiral WAINWRIGHT. The 1895 one?

Mr. HOBSON. Yes; and the subsequent one.

Admiral WAINWRIGHT. The object of the subsequent one was more apparent. In 1895 there were no technical men in the council, and they felt they were not spending their money to the best advantage. They saw certain deficiencies in both army and navy.

Mr. BATES. May I ask how that council was constituted; from what personnel?

Admiral WAINWRIGHT. In 1895 the president of the council, the prime minister, the secretary of state for war, and the first lord of the admiralty.

Mr. BATES. Were there members of Parliament in that council?

Admiral WAINWRIGHT. The first lord of admiralty is a member of Parliament; the prime minister is a member of Parliament; the secretary of state for war is a member of Parliament. The president of the council is probably almost always a member of the House of Lords. So they are all legislative men.

Mr. ROBERTS. You are speaking of the first council, of 1895?

Admiral WAINWRIGHT. Yes. In 1903, after the Boer War, when they saw how deficient the army was, they increased the council by putting in the commander in chief of the army, the first naval lord (the first sea lord) of the admiralty, and the two intelligence officers, the officer in charge of military intelligence and the officer in charge of naval intelligence. They really represent what our presidents of the War College do, except that our president of the War College now has not the Office of Naval Intelligence under him. It would be better if he had.

Mr. HOBSON. I want to ask Admiral Wainwright, in connection with his account of the second and current council in England, whether the Boer War threw any light on the necessity for the council?

Admiral WAINWRIGHT. The Boer War was the reason they strengthened their council with technical members. Formerly they would call in technical people to explain to them the necessities, and after their great troubles in the Boer War they found that their army was not properly organized, and they also thought they could do better with transportation, and so forth, which was the navy part. They thought by placing regular technical members on the board they could talk more freely with

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the legislative members than if they were called in for a mere hearing. I do not think that in any of these boards it can ever become a question of voting. I think if the legislative members, for instance, did not agree to a policy the recommendation would not be made, because it would be ineffective. It would be like our meetings of the joint board.

Mr. HOBSON Admiral, as to the necessities or needs of that general policy now, do you think that it would facilitate settlement of the broad question of naval bases?

Admiral WAINWRIGHT. As to the question of naval bases, naval stations, and fortifications, I think both the Army and Navy—a great many of us think there should be a uniform policy as to what should be fortified; that the country should not put money where it is not needed, in fortifications or in permanent naval stations, and that some places may not be neglected; but a uniform policy which would state what we are looking forward to I think would be of great value.

Mr. HOBSON. In connection with that arises the question of joint operations of Army and Navy in time of war and preparation in time of peace for such matters as transportation.

Admiral WAINWRIGHT. The question of preparation, and how they should cooperate, not how they should operate after the war came; that should become technical.

Rear Admiral Raymond P. Rodgers, president of the Naval War College, United States Navy, made a statement in part as follows:

I think the principle embodied in this bill is most desirable and necessary for us in determining any policy of preparation for war. It not only brings together the two executive military departments, the Army and Navy Departments, but it brings into this council several of the principal representatives of both Houses of Congress to shape these policies. Councils similar to the one proposed are found in all the parliamentary countries of the world, and the advantage of them has been found to be very great. We have not had very much policy heretofore, for anything we got in the way of increase was of value; but now that we have developed so widely as we have it seems most important that there should be a policy for future development and expenditure in preparedness for war, and it seems that a council of this character is the best adapted for the purpose.

Brig. Gen. William W. Wotherspoon, United States Army, president of the Army War College, made a statement in part as follows:

I consider this the most important bill in regard to the military efficiency of the country that has ever come under my observation. I say that from the standpoint purely of the Army. The great trouble we find at the War College is in ascertaining what the policy of Congress, the legislative body, is in regard to military affairs. We can only deduce that from its legislative acts. If we can crystallize that into a few brief sentences, it would be this, that Congress expects, on the breaking out of war, that the gathering together of untrained, unskilled, and uneducated men will constitute an efficient army for the country. That has always been the course pursued, and until we get some council like this probably it will be continued to be pursued. The result of that apparent policy has been most disastrous in the past, both financially and from the point of conservation of our human resources. In the War of 1812 Great Britain had never at any time on this continent a greater force than 16,500 soldiers. We mustered into the service 527,000 men, more than half a million. In 1878 we had a pension roll of 78,000 pensioners from the War of 1812, costing over half a million more than the entire Regular Army cost in 1811. That is simply an illustration.

The most important feature, however, of this bill, so far as the Army is concerned, is this: The Army, drifting along from its old days in Indian campaigning, settled down here, there, and everywhere in the West and we have posts in the most out-of-the-way corners you can conceive of, the farthest possible from sources of supply and sources of recruits, so that the administration of the Army is enormously expensive. I conceive that such a board would take this up.

At another hearing Gen. Wotherspoon said:

I consider this as decidedly the most important measure that has ever come under my observation since I have been in the Army, in forty-odd years. I should say that I have been working continuously for the last six years in order to get some such body as is proposed in this bill to pass authoritatively upon a national policy with regard to national defense. I have been compelled, as president of the War College, in preparing plans to pass from a state of peace to a state of war, to search the records to see if there existed such a thing as a military policy in the United States. I found

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no evidence whatever of it. There is nothing that anyone can point to and say, "This is the policy the Nation will pursue in the event of war or in the preparation for war." In those studies I have seen that the expenditures for the Army are enormous, without results adequate to the cost. We have our Army scattered all over the country in the most expensive situations that there are, far from the sources of recruitment, far from the sources of supplies, far from railroad communication, where the cost of assembly at any definite point where their services would be required would be a great deal more than if we could have a scientific assembly. We have none of the higher organizations, such as brigades and divisions, which all other nations consider as absolutely essential for military efficiency. I have been in the service for 40 years, and I have never seen 5,000 men assembled. I have only once had control as a general officer of about 4,000 men, and then only for a few weeks in a militia camp.

I have never seen a staff for one of these higher organizations trained. I consider that this bill will coordinate the efforts of the Army and the Navy and the legislative branch into some unified policy, which will make for decided economy and still more decidedly for efficiency. I have stated to this committee before and to the Military Committee that I am perfectly convinced that an army three times as efficient and probably twice as strong as we have now can be maintained for the money we are at present spending for the Army. I should regret very much to see this bill fail, because it will throw us back to where we have always been, so that when a war comes on the first step is to evolve a policy from uncoordinated elements; the next step is to organize the higher fighting units; the third step, and that we always fail in, is the equipment of those units. I do not know that the committee knows that when the War of 1861–1865 came on it was the Secretary of the Treasury that drafted the bill for the United States Army or the Federal Army. The Secretary of War was too busy at that time to establish either a policy or to prepare for an organization. Consequently it was left to Mr. Chase.

Admiral A. T. Mahan, United States Navy (retired), made a statement in part as follows:

The general purpose of the bill seems to me excellent. It would compel the deliberation in common of a number of men whose specialties are closely allied actually, but are not brought into formal cooperation, as the bill provides they shall hereafter be. For the information of each member of the council, and of the whole as a body, and for the subsequent formulation of measures, this method is superior to the appearance of experts before a committee, though it doubtless will not supersede that. Experts before a committee are like witnesses in a box, and confine themselves very closely to the matter in hand, whereas in discussion between equals many collateral facts and considerations transpire because of the freedom of range. Time is not thereby lost, at least to any greater extent than the half-informed questionings of those who are eliciting statements from a witness. I believe that Congress, the ultimate arbiter in matters of military provision, would be enabled to judge much better through the institution of this proposed council.

As to questions of detail, I have very little to suggest. The proposed composition of the council, by ex officio members, seems to me very judicious.

It has been justly remarked (Corbett's Seven Years War) that the strength of Great Britain's action in that war was that the three allied functions—diplomacy, army, and navy—were in one hand. In my judgment, they should all be represented in the proposed council.

Commander Frank Kinsey Hill, United States Navy, of the Naval War College, made a statement in part as follows:

* * * A war will be properly carried on when the statesmen who control the steps preceding and subsequent to war work with and sustain the two military branches in harmonious plans during war, which plans are drawn to further the policies which caused the war; and, further, that it is necessary for the military commanders to study and broadly comprehend the policies of governments, so that their plans will fit the ends to be attained. * * * Now, unless the statesmen will tell us what the policies are we can not make proper strategic plans. I would like to illustrate this in one case with regard to Russia and Japan. The Russian statesmen did not coordinate with the army or navy. They did not know that a war was coming on between those two countries, as a matter of fact. The result was that they did not have the Russian forces in place to fight at the beginning of the war. The result was that Russia was defeated up to the time of the treaty. It is now considered by many that if war had been continued for a few months longer Russia would have prevailed. But lack

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of harmony between the Russian statesmen and the Russian army and navy commanders caused the defeat of that country. Another case, if you wish, is the Boer War, when exactly the same thing happened. * * * Having established a policy, then it is next the business of the military officers to state the necessities for their branches to carry out the policy.

There is one other question which was asked several times by the chairman, and that is the question of economy, and the answers were wholly based on the economy due to coordination and a directive force. I consider that two economies will result, and the one named is the minor one. The largest economy which will ever come from this bill will result from our being so prepared for war that the enemy will decide not to have war with us. We would save a couple of billion dollars and several hundred thousand lives over and above the few millions which we could save by this fixing up of the stations, as mentioned by Gen. Wotherspoon. * * *

We thus see that a definite responsibility can and ought to be fixed; first, for the decision as to what the policies of the Government will be; second, for the recommendation concerning the forces necessary to carry out the policies; third, for the appropriations necessary to provide these forces; and, fourth, for the right use of these forces by the military and naval commanders after they have been provided. The people of the United States, who delegate power to carry on the Government, should be thoroughly informed as to the various responsibilities, so that the credit for success or odium for failure should rest where it belongs. * * *

War, being the result of policies enforced, should be based on strategic plans to gain certain definite ends. For instance, if the United States had a policy of extension of territory by absorption of Canada, the war would be directed so as to gain military control of that territory, and if the war ended successfully for the United States, the treaty would probably cede to them such territory as was held under military control at the end of the war.

It is thus seen that the strategic objective of a war must rightly comprehend a knowledge of the policies which preceded war and contemplate the treaty which is to conclude the war.

CONCLUSIONS.

War is not independent of political considerations, but must be outlined and carried on with due regard to these considerations. That to properly outline the war the three branches of the Government (State, War, and Navy Departments) should act in conjunction, and that peace preparation in anticipation of war should be the joint action of Congress, the War and the Navy Departments.

Finally, both the peace preparations and war will best be carried out by a national board for war comprised of units representing both branches of Congress and the Departments of State, War, and Navy.

The three greatest authorities on the art of war are Jomini, Clouseuritz, and Von der Goltz.

Von der Goltz says:

Upon policy the whole condition, the feeling, the constitution, and the moral and physical affairs of a State depend; and upon these depends, again, the waging of war.

Policy, again, regulates the relations not merely of those States immediately concerned, but also those of such as are indirectly interested in the final issue. Their favor or disfavor may be of very great significance, impeding the course of events or promoting them. Politics, again, as a rule determine the moment for the outbreak of hostilities, upon the happy choice of which much depends. They, in short, create the general situation, in which the State enters into the struggle, and this will be of material influence upon the decisions and attitude of the commander in chief, and even upon the general esprit of the army. * * *

War serves politics both before and after. War waged only for annihilation and destruction is in these days inconceivable. An end and aim that is of permanent value to the State, be it only a question of ascendancy, must be existent; and this can only arise from political considerations.

The object of a war is of such importance and will be of such lasting effect upon the exertions which nations make to attain it that we ought, almost on this account alone, to place policy first among conditions of success. Now, as we have here pointed out, many motives are also attendant, and thus we may without hesitation lay down a maxim that without a good policy a successful war is not probable. * * *

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Clouseuritz says:

Thus, therefore, the political object, as the original motive of the war, will be the standard for determining both the aim of the military force and also the amount of effort to be made. * * *

We see, therefore, in the first place, that under all circumstances war is to be regarded not as an independent thing, but as a political instrument; and it is only by taking this point of view that we can avoid finding ourselves in opposition to all military history. This is the only means of unlocking the great book and making it intelligible. Secondly, this view shows us how wars must differ in character according to the nature of the motives and circumstances from which they proceed.

Now, the first, the grandest, and most decisive act of judgment which the statesman and general exercise is rightly to understand in this respect the war in which he engages, not to take it for something or to wish to make of it something which by the nature of its relations it is impossible for it to be. This is therefore the first, the most comprehensive, of all strategical questions.

Jomini says:

The art of war consists of six distinct parts:

(1) Statesmanship in its relation to war.

(2) Strategy, or the art of properly directing masses upon the theater of war, either for defense or for invasion.

(3) Grand tactics.

(4) Logistics, or the art of moving armies.

(5) Engineering the attack and defense of fortifications.

(6) Minor tactics.

* * * * * * *

STATESMANSHIP IN ITS RELATION TO WAR.

Under this head are included those considerations from which a statesman concludes whether a war is proper, opportune, or indispensable, and determines the various operations necessary to attain the object of the war.

War is always to be conducted according to the great principles of the art; but great discretion must be exercised in the nature of the operations to be undertaken, which should depend upon the circumstances of the case.

To these different combinations, which belong more or less to statesmanship, may be added others which relate solely to the management of armies. The name "military policy" is given to them; for they belong exclusively neither to diplomacy nor to strategy, but are still of the highest importance in the plans both of a statesman and a general.

Col. Henderson, of the British Army, in his book, The Science of War, says:

While a statesman may be competent to appreciate the general principles of the projects of operations laid before him, he should never attempt to frame a project for himself. * * *

But political and financial considerations may not present themselves in quite the same light to the soldier as to the statesman, and the latter is bound to make certain that they have received due attention. If, however, modifications are necessary, they should be made before the plan of campaign is finally approved, and in any case the purely military considerations should be most carefully weighed. It should be remembered that an unfavorable political situation is best redeemed by a decisive victory, while a reverse will do more to shake confidence in the Government than even the temporary surrender of some portion of the national domains. "Be sure before striking" and "reculer pour mieux sauter" are both admirable maxims; but their practical application requires a thorough appreciation of the true principles of war and a very large degree of moral courage, both in the soldier who suggests and in the statesman who approves. If, however, the soldier and the statesman are supported by an enlightened public, sufficiently acquainted with war to realize that patience is to be preferred to precipitation, that retreat, though inglorious, is not necessarily humiliating, their task is very considerably lightened.

The question of the constitutionality of this measure was referred to the Attorney General, who gave an opinion as follows:

I see no constitutional objection to the proposed measure. It merely empowers a number of officials—some in the executive and some in the legislative department—

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to meet and recommend to the President "such measures relating to the national defense as it shall deem necessary and expedient." I suppose that the President might without any act of Congress call together the same officials and discuss with them any measure of government in which he is interested. As a matter of fact, that is what he does with respect to important legislation of any kind. Take the various conferences that the President had with the members of the executive and the legislative branches of the Government regarding the railroad legislation two years ago, and with respect to the tariff.

I know of nothing in the Constitution to interfere with such legislation as is proposed by this bill.

A precedent for associating together members of the different branches of the Government is found in the act establishing the Smithsonian Institution and the Board of Regents of that institution.

Under the act of March 12, 1894, the President, Vice President, and Chief Justice of the United States are associated together in the charter body, and under section 5580, Revised Statutes, the Vice President, members of the Cabinet, the Chief Justice, and six Members of Congress, three from the Senate and three from the House are associated together on the Board of Regents.

Every bill signed by the President is the joint work of the two branches of the Government. The complete separation of authority lodged in the two branches of the Government will be no more effected by joint action in the council than it is by joint action upon bills. The advantages of having the wisdom of both branches invoked in determining policies of national defense are even greater than in determining the usual laws.

Indeed, it is inherently impossible to attain a high degree of effectiveness in policies of national defense without bringing together the two branches of the Government.

The chief original purpose of the separation of the two branches of the Government was to avoid combining the powers of the two in the same man or group of men. Such a combination does not in the remotest degree result from the council.

No member of the executive branch is given any legislative power, nor is any member of the legislative branch given any executive power. In fact, the authority of the council is only advisory, and before any of its reports can be effective the recommendations made must be acted on by Congress and by the Executive.

The very fact that our two branches of Government, legislative and executive, are so entirely distinct, so much so that a member of the Cabinet may not even address the Houses of Congress and a Member of Congress may not hold an executive office, makes it far more imperative in America than in any other great country to establish a council of national defense in which the divergent branches may meet. Unity, continuity, and harmony are otherwise impossible, and without these there can be neither effectiveness nor economy.

The investigations of military authorities, notably the late Gen. Upton, show conclusively that the lack of a well-developed policy and the lack of harmony in our past wars are chiefly responsible for the larger part of our sacrifices of blood and treasure and for most of our reverses, if not for the wars themselves, while the hearings before this committee on this bill show clearly the same lack to be at the bottom of the high cost and lack of efficiency in our Military Establishment in time of peace.

George Washington, in a letter to the President of Congress, dated August 20, 1780, sets forth the serious and all but fatal consequences

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of a lack of a real definite policy of defense during the Revolutionary War. He says:

Had we formed a permanent army in the beginning which, by the continuance of the same men in service, had been capable of discipline, we never should have had to retreat with a handful of men across the Delaware in 1776, trembling for the fate of America, which nothing but the infatuation of the enemy could have saved; we should not have remained all the succeeding winter at their mercy, with sometimes scarcely a sufficient body of men to mount the ordinary guards, liable at every moment to be dissipated, if they had only thought proper to march against us; we should not have been under the necessity of fighting Brandywine, with an unequal number of raw troops, and afterwards of seeing Philadelphia fall a prey to a victorious army; we should not have been at Valley Forge with less than half the force of the enemy, destitute of everything, in a situation neither to resist nor to retire; we should not have seen New York left with a handful of men, yet an overmatch for the main army of these States, while the principal part of their force was detached for the reduction of two of them; we should not have found ourselves this spring so weak as to be insulted by 5,000 men, unable to protect our baggage and magazines, their security depending on a good countenance and a want of enterprise in the enemy; we should not have been the greatest part of the war inferior to the enemy, indebted for our safety to their inactivity, enduring frequently the mortification of seeing inviting opportunities to ruin them pass unimproved for want of a force which the country was completely able to afford, and of seeing the country ravaged, our towns burnt, the inhabitants plundered, abused, murdered, with impunity from the same cause.

Nor have the ill effects been confined to the military line. A great part of the embarrassments in the civil departments flow from the same source. The derangement of our finances is essentially to be ascribed to it. The expenses of the war and the paper emissions have been greatly multiplied by it. We have had a great part of the time two sets of men to feed and pay—the discharged men going home and the levies coming in. This was more remarkably the case in 1775 and 1776. The difficulty and cost of engaging men have increased at every successive attempt, till among the present lines we find there are some who have received $150 in specie for five months' service, while our officers are reduced to the disagreeable necessity of performing the duties of drill sergeants to them, with this mortifying reflection annexed to the business, that by the time they have taught these men the rudiments of a soldier's duty their services will have expired and the work recommenced with a new set. The consumption of provisions, arms, accouterments, and stores of every kind has been doubled in spite of every precaution I could use, not only from the cause just mentioned, but from the carelessness and licentiousness incident to militia and irregular troops. Our discipline also has been much hurt, if not ruined, by such constant changes. The frequent calls upon the militia have interrupted the cultivation of the land, and of course have lessened the quantity of its produce, occasioned a scarcity, and enhanced the prices. In an army so unstable as ours order and economy have been impracticable. No person who has been a close observer of the progress of our affairs can doubt that our currency has depreciated without comparison more rapidly from the system of short enlistments than it would have done otherwise.

There is every reason to believe that the war has been protracted on this account. Our opposition being less, the successes of the enemy have been greater. The fluctuation of the army kept alive their hopes, and at every period of the dissolution of a considerable part of it they have flattered themselves with some decisive advantages. Had we kept a permanent army on foot the enemy could have had nothing to hope for, and would in all probability have listened to terms long since.

In a subsequent letter to the President of the Congress, dated September 15, 1780, he says:

I am happy to find that the last disaster in Carolina has not been so great as its first features indicated. This event, however, adds itself to many others to exemplify the necessity of an army and the fatal consequences of depending on militia. Regular troops alone are equal to the exigencies of modern war, as well for defense as offense, and whenever a substitute is attempted it must prove illusory and ruinous. No militia will ever acquire the habits necessary to resist a regular force. Even those nearest to the seat of war are only valuable as light troops to be scattered in the woods and harass rather than do serious injury to the enemy. The firmness requisite for the real business of fighting is only to be attained by a constant course of discipline and service. I have never yet been witness to a single instance that

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can justify a different opinion, and it is most earnestly to be wished that the liberties of America may no longer be trusted, in any material degree, to so precarious a dependence. I can not but remark that it gives me pain to find the measures pursuing at the southward still turn upon accumulating large bodies of militia, instead of once for all making a decided effort to have a permanent force. In my ideas of the true system of war at the southward, the object ought to be to have a good army rather than a large one.

The late Gen. Upton, perhaps the greatest military authority in America, in his book on "The Military Policy of the United States," in summing up the conclusions as to the War of 1812, says:

The lessons of the war are so obvious that they need not be stated. Nearly all the blunders committed were repetitions in an aggravated form of the same blunders in the Revolution, and like them had their origin either in the mistakes or omissions of military legislation.

In the war under the Confederation Congress in its own name could not raise a dollar, nor arm and equip a single soldier. Under the Constitution, it had the sovereign authority to call forth the entire financial and military resources of the people.

In one war, with a debt of $200,000,000 the Nation became bankrupt at the end of five years; in the other, a debt of nearly equal magnitude was contracted in two and one-half years.

In the first war, notwithstanding the steady decline of our military strength, two British armies of more than 6,000 men each, were made captive; in the other, less than 5,000 men, for the period of two years brought war and devastation into our territory, and successfully withstood the misapplied power of 7,000,000 of people.

These ideas were concurred in by Gen. James A. Garfield and by Gen. William T. Sherman, who penciled the following notes on Gen. Upton's original manuscript:

"I renew the suggestion that a further statement of the composition of the British forces against us ought to be made.

"J. A. G."

"A compliance with Gen. Garfield's suggestion will strengthen your argument. Many strong men will contest your conclusions by charging the lamentable failure of the War of 1812 to other causes than false legislation; to want of skill by generals and officers, such as the want of concert of action and dispersion of our strength, the want of men of action as leaders, rather than want of wisdom in council. I doubt if you will convince the powers that be, but the facts stated, the references from authority, and the military conclusions are most valuable, and should be printed and made accessible. The time may not be now, but will come, when these will be appreciated, and may bear fruit even in our day.

"W. T. SHERMAN."

Gen. Upton in the same work points out the similar consequences in the Florida War, 1836–1843, in which over 40,000 troops were engaged. The 4,000 Regulars engaged alone lost 1,500 men. He says:

For want of a well-defined peace organization, a nation of 17,000,000 of people contended for some years with 1,200 warriors and finally closed the struggle without accomplishing the forcible emigration of the Indians, which was the original and sole cause of the war.

Gen. Upton is authority for the statement that the Mexican War, though successful, was longer than should have been required and exposed both the army of Gen. Taylor and the army of Gen. Scott to unnecessary peril. The events attending the annexation of Texas caused a degree of preparation for this war excelling anything in our previous annals. We were fortunate in the ability and experience of our officers, and their determining influence was felt as much in the preparations as in the battles. A crude approximation to a definite policy in this war, as compared with previous wars, was rewarded by an unbroken series of victories.

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It remained for the Civil War to bring out the staggering price in blood and treasure a nation may pay for having no definite policy of defense.

Capt. J. M. Palmer, of the General Staff, investigating the causes that led up to this war, drew the conclusion that the utter lack of a military policy and of preparation on the part of the Union is the real responsible cause of the war. He says in Scribner's Magazine, February, 1912:

A study of the period immediately preceding the Civil War reveals that secession was a formal and carefully preconceived act. * * * The southern people took the step that meant war simply because they thought that they could win. It must be remembered that Jefferson Davis was not only a trained soldier, but an ex-Secretary of War of the United States. As a trained soldier he knew what military institutions should be, and as a Secretary of War of the United States he had learned what military institutions should not be. He knew that the United States was unprepared for war, he knew that it had no intelligent military policy, and he knew that know-nothingism in military affairs was cultivated as a positive civic virtue among northern politicians. He knew that the North had greater resources of wealth and population, but he knew that the war must be a war of subjugation, and as a trained military expert he knew that a war of subjugation can not be successfully waged by raw levies. He realized that the southern armies must also be largely untrained at first, but he was acquainted with the scientific fact that troops can be trained to defend long before they can be trained to conquer. He knew also that the military situation would impose a policy of invasion upon the North and that invasion would largely neutralize the advantage of superior numbers.

Mr. Davis and his associates also knew the military history of the United States to be a history of legislative incapacity. They knew that Washington considered the British army to be a much less formidable obstacle to success than the stupid military policy of the Continental Congress. * * * They knew that in the War of 1812, a war conducted on Jeffersonian principles, 16,000 British soldiers had been able to prevent 500,000 Americans from conquering Canada. They knew that during the Mexican War Gen. Taylor was left with only 5,000 men to bear the brunt of Buena Vista, and that when Gen. Scott was within three days' march of the City of Mexico, with victory behind him and final victory within his grasp, he was deprived of half of his little army on account of an oft-repeated legislative blunder. They knew that in all of our wars the American soldier has been called upon to win in spite of an unintelligent military statesmanship, and they did not believe that with such military institutions as these the North could successfully undertake the conquest of 5,000,000 Americans.

Such was the logical estimate of the military situation. The appeal to arms was made by the southern leaders because in all human probability their cause would succeed. And they were almost right. But they failed to estimate the marvelous endurance of the northern people, who, spite of defeat, spite of unprecedented wastes of their blood and treasure, and spite of an unenlightened military policy, clung to the fearful burden of the war and bore it to the bitter end.

The Civil War was a long and protracted struggle because it takes two years to convert armed mobs into armies, and until that conversion is complete there can be no decisive scientific military action. It was indeed fortunate for the United States that in this war its antagonist also began operations with an armed mob instead of an army.

Our analysis of the facts of the Civil War has thus far led us to two important conclusions: First, that efforts to prevent it judicially were vain, and, second, that the undoubted proximate cause of the war was the military unpreparedness of the United States. * * * At the close of 1860 the Regular Army of the United States comprised 16,367 officers and enlisted men. This force consisted of 198 companies, and of these 183 companies were stationed on the Mexican and Indian frontier or were en route to distant posts west of the Mississippi. The 15 remaining companies were employed in guarding the Canadian frontier and the Atlantic coast from Maine to the Gulf of Mexico.

On October 29, 1860, in view of the "imminent danger of a disruption of the Union by the secession of one or more of the States," Gen. Scott recommended that Forts Moultrie and Monroe and other southern forts be reenforced in order to prevent their capture by a coup de main or surprise. In a postscript added to his letter to the Secretary of War, he stated that the forces of the United States available for the purpose were only five companies, stationed as follows: One company at Boston, one company

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at the Narrows (New York Harbor), one company at Pittsburgh, one company at Augusta, Ga., and one company at Baton Rouge. These five scattered companies, comprising about 400 men, constituted the total military force of the United States available for any sudden emergency. * * *

The propriety of reenforcing the southern forts was carefully considered by Mr. Buchanan and his Cabinet, but the project was overruled, and thereupon the Secretary of War, Gen. Cass, resigned.

But in its decision the administration of Mr. Buchanan should not be criticized without weighing the means at his disposal. The demands of the military situation were very clear. Prompt and decisive military action must have terminated the crisis, but prompt and decisive military action is not to be expected of a nation that has no military power. A vigorous national policy could hardly be supported by five scattered companies numbering 400 men. The tone of the southern leaders at this time was one of contempt for the weakness of the Federal Government. Their contempt was justified by the facts, and out of their contempt grew war. * * * The total cost of the Civil War to date has been over $9,000,000,000. It might have been prevented by an appropriation of $5,000,000 per annum from 1850 to 1860. But though it has already cost $9,000,000,000, it is still costing over $160,000,000 per annum for pensions on account of preventable military service, death, and suffering. In view of its consequences, was the military retrenchment of the "fifties" a true economy? For every dollar spared from the proper military budget of 1860 we have so far paid $1,800, and we are still paying $32 a year almost half a century after the war. And this is the traditional military policy of the United States. * * *

Although our analysis of the causes of the Civil War has necessarily been brief, it throws a suggestive light on several phases of the profound problem of war and peace. We find that the controversies that led to the Civil War were first brought before a competent tribunal, but that judicial action even under the most favorable circumstances was unable to prevent the appeal to arms. We find, however, upon further examination that the war in all human probability was a preventable struggle and that the proper preventive measure was simply Washington's classical remedy, preparedness for war.

We also find a remarkable illustration of the vast difference that exists between military retrenchment and military economy. Economy always demands efficiency, no matter how much efficiency may cost, and retrenchment at the expense of efficiency is never economy. Because our fathers ignored this truth, we are still paying thirtyfold for an unintelligent retrenchment of 60 years ago.

There can be no doubt that the lack of a definite policy, the lack of harmony and organization, at the outbreak of the War with Spain are the chief causes of the heavy toll of life and health paid to disease, fourteen times that paid to bullets, though the bulk of our forces never left our own shores.

In fact, this lack of a defense policy is no doubt the real cause of the war itself. Any rational policy would have dictated our holding control of the sea as the Cuban question grew more acute. Ten million dollars put into ships in the early nineties would have insured this control and would have guaranteed the settlement of the Cuban controversy by diplomacy. With control of the sea there would have been no war. As soon as we gained control of the sea the war ended. A few millions of dollars put out in pursuance of a policy would have saved hundreds of millions poured out in war.

America has 30,000,000 of her citizens and $37,000,000,000 of her property exposed to naval attack. We have an expanding foreign commerce coming more and more in competition with the commerce of the great military powers of Europe and Asia. We propose to maintain the Monroe doctrine and insist on the "open-door policy," and are pledged to maintain the neutrality of the Panama Canal. Our possessions, whether to our liking or not, are spread all over the Pacific Ocean, placing us in the vortex of the world's politics. There is no choice. We must make adequate provision for self-defense.

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This can not be done with efficiency and economy without a proper agency. This bill establishes such an agency without creating any new offices, and practically without entailing any additional expense. The committee unanimously recommends its passage at an early date.

The great weakness of our Nation from the standpoint of national defense has been the want of a definite policy and the want of cooperation between the various agencies involved. This bill makes up for this weakness and will promote economy and efficiency in peace and increases the chances of victory in war.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 585.

EXCHANGE OF CERTAIN LANDS IN THE HARNEY NATIONAL FOREST.

APRIL 22, 1912.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MONDELL, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 21259.]

The Committee on the Public Lands, having had under consideration the bill (H. R. 21259) to allow the exchange of certain lands in the Harney National Forest, report the same back with recommendation that it do pass.

This bill proposes to authorize an exchange, one for the other, of two tracts lying near the western border of the Harney National Forest, in South Dakota.

John L. Baird is the owner under patent from the United States of a certain tract in the reserve in question, containing approximately 156 acres. This tract, according to the report from the Secretary of Agriculture, has an altitude of about 6,500 feet; one half of the land is open ground, with deep soil, and suitable for forest culture. The other half is covered with a scattering growth of timber, the total stand of which is estimated by the Agricultural Department to be about 150,000 feet board measure of mature pine. The Keenstone placer is some miles from the aforesaid tract and at a slightly lower altitude; it contains almost 91 acres.

According to the report of the Secretary of Agriculture relative to this tract:

> The larger portion of the claim is open ground which, after the removal of the brush, has been seeded to grass and is an excellent hay meadow. There is only a very small amount of timber upon the claim and the total stand would not exceed 2,000 feet board measure of pine and 10,000 feet board measure of spruce. The land is without doubt more valuable for agriculture than for forest purposes and is not needed for any public use.

After stating the facts with regard to the two tracts, the Secretary of Agriculture proceeds with the following recommendation:

> Since the land covered by this claim (the tract proposed to be exchanged) is more suitable for forest purposes than the land covered by the Keenstone placer claim, I am very glad to approve the passage of the bill.

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These facts, taken from the record, would seem to afford sufficient reason for the passage of the bill. The committee is further informed that the party named in the bill, John L. Baird, has a further claim for the privilege and exchange in the fact that some years ago he leased the lands included in the Keenstone placer from the executors of James L. Callanan, the claimant, and purchased certain personal property situated on the lands for the sum of $1,000, and entered into a written agreement to buy the lands when the placer entry was perfected. Mr. Baird supposed that Callanan had earned the right to a patent.

Since making this trade Mr. Baird has been using and occupying the lands for pasture purposes, and has made improvements upon it.

While the tract which Mr. Baird surrenders has a larger acreage than the tract he secures, it is, by reason of its location and character, more useful to him than the larger tract; while the larger tract is, as stated by the Secretary of Agriculture, more valuable to the Government. The exchange therefore seems to be equitable and particularly in the interest of the Government, as shown by the report of the Secretary of Agriculture, which is appended hereto and made a part of this report.

After the former bill passed Congress and went to the President, it was referred by him to the Interior Department and to the Attorney General. The Interior Department referred to the efforts of James L. Callanan, heretofore referred to, to secure title to the Keenstone placer under the stone placer act, and attention was called to the fact that Callanan's claim was canceled on the ground that he was endeavoring to secure agricultural land under the stone placer act, and stated that the records of the General Land Office failed to show such facts as would entitle Mr. Baird to equitable consideration. The Department of Justice, in reporting on the matter, quoted from the letter of the Secretary, and concludes as follows:

The Secretary of the Interior sets forth strong reasons for concluding that the stone placer entry was fraudulent. Assuming, as I am glad to do, that his letter exhibits fairly the substance of the evidence that was given in the protest proceedings before his department, I conclude, without hesitation, that the land was valuable for farming and grazing; that it was not valuable for the stone, save as the stone might be incidentally of use in providing foundations for the farm buildings; and that acquisition of the tract for farming purposes was the sole object of the mineral application. In view of the premises, it must be said that those who made the application for patent and pressed the claim in face of the protest of the Forest Service were engaged in an attempt to circumvent the law and defraud the United States—an attempt which must have been supported by false representations of material facts. Having met with defeat before the Land Department, they take the case to Congress and there ask for the very thing which the department, upon just grounds and in deference to law, denied them. It is true that a new consideration is offered—a small tract of land in lieu of the purchase price fixed by the placer law—but that, I take it, is quite unimportant, the question raised being one of principle and not of material equivalents. Should this bill become a law, the claim will have been approved and the department, in appearance at least, overridden by a higher authority.

I do not believe, under the circumstances, that Congress intended this. Evidently the communications concerning the bill which were sent by the Secretary of the Interior to the committees having it in charge came too late to receive consideration or were inadvertently overlooked. Therefore these facts, which are now known to you, were neither referred to in the committees' reports nor mentioned in the debates of either House when the bill was put upon its passage, non constat that the bill would have passed if these facts had been made known to Congress

In what precedes I have not felt justified in discriminating between Mr. Baird and his predecessors in interest. The statement does not show when he purchased or what, if any, part he took in urging the placer claim. He may have bought in good faith and may have been entirely free of any fraudulent participation at any time.

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If such were demonstrated to be the fact, the objections to the bill considered in this letter would disappear; but such is not the inference to be drawn naturally from the facts as given. The inferences are that if he purchased the land, he knew what it was, knew that it was not valuable as stone land, knew that it was valuable as agricultural and grazing land, and proposed to use it as such, all before the purchase was made. Knowing these things, he knew, presumably, that the entry was unlawful.

It will be noted that the Department of Justice says, "In what precedes I have not felt justified in discriminating between Mr. Baird and his predecessors in interest." The statement does not show when he purchased or what, if any, part he took in urging the placer claim. He may have bought in good faith and may have been entirely free of any fraudulent participation at any time. If such were demonstrated to be the fact, the objections to the bill considered in this letter would disappear.

John L. Baird bought the personal property on the Keenstone placer and entered into the agreement to buy the land in perfect good faith, as is shown by the affidavit printed and made part of this report, and therefore the objection on which the former bill was vetoed, as the Attorney General suggests, has disappeared and the bill should pass.

In this connection it might not be amiss to suggest, however, that the action taken by Congress in originally providing for the exchange was primarily based on the proposition that the Government was making a good trade in securing 154 acres of good forest land containing 150,000 feet b. m. of mature pine, besides a fine young growth, in exchange for less than 91 acres of land of no particular value for forestry purposes and containing only 12,000 feet b. m. of inferior timber. The case was strengthened, however, by Mr. Baird's equitable claim, which was entirely free from any taint of fraud.

JUNE 23, 1911.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

DEAR SIR: In reference to your request for a report on the land which, under the terms of H. R. 8853, it is proposed to exchange, I have the honor to inform you in reference to the Keenstone placer claim that the altitude of this claim is approximately 6,000 feet above sea level. It lies near the head of Cold Spring Creek, which flows through the center of the claim to the west. The larger portion of the claim is open ground, which, after the removal of the brush, has been seeded to grass and is an excellent hay meadow. There is only a very small amount of timber upon the claim, and the total stand would not exceed 2,000 feet board measure of pine and 10,000 feet board measure of spruce. The land is without doubt more valuable for agricultural than for forest purposes and is not needed for any public use.

The land which it is proposed to exchange for the Keenstone placer claim and which consists of lot 4, sec. 3, and lot 1 and the E. ½ of the SE. ¼ of sec. 4, T. 1 S., 1 E., Black Hills meridian, known as the Thos. Thompson homestead, is located at an altitude of about 6,500 feet. A number of settlers in its vicinity successfully raise crops of timothy hay and occasionally good crops of oats. One half of the land within the claim is open ground with deep soil suitable for raising hay and hardy crops. The other half is timberland with a very scattering growth of timber thereon, the total stand of which at the present time does not exceed 150,000 feet board measure of mature pine. There are no improvements on the claim excepting a wire fence, which inclosed about 25 acres. The land is exceptionally good grazing ground at the present time, and would be suitable for forest culture. Since the land covered by this claim is more suitable for forest purposes than the land covered by the Keenstone placer claim, I am very glad to approve the passage of the bill.

I suggest, however, that the following proviso be added to the end of the bill:

"*Provided further*, That the lands reconveyed shall thereby become a part of the Black Hills National Forest."

Very respectfully, JAMES WILSON, *Secretary*.

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JULY 20, 1911.

Hon. JOSEPH ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

DEAR SIR: In further reference to your request for a report on the land which, under the terms of H. R. 8853, it is proposed to exchange, and to my letter of June 23:

In the last-mentioned letter it was suggested that the following proviso be added:

"*Provided further*, That the lands reconveyed shall thereby become a part of the Black Hills National Forest."

Since the portion of the Black Hills National Forest which included this land has now been named the Harney National Forest, the proviso mentioned should read:

"*Provided further*, That the lands reconveyed shall thereby become a part of the Harney National Forest."

Very respectfully, JAMES WILSON, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, January 4, 1912.

Hon. JOSEPH T. ROBINSON,
House of Representatives.

DEAR SIR: Your letter of December 27, inclosing a copy of the bill (H. R. 8853) for the relief of John L. Baird, is received.

On June 23, 1911, in accordance with your request, I had the honor to submit a report upon this same bill, and on July 20, 1911, I suggested that a further amendment be made to it. It seems, therefore, as though my other letters did not reach their intended designation. For that reason I inclose copies of the letters of 1911 which reported upon this bill.

Very truly, yours, W. M. HAYS, *Acting Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, February 21, 1912.

The PRESIDENT,
The White House.

SIR: In reference to Secretary Hilles's request of February 20, regarding the bill (H. R. 8853) "for the relief of John L. Baird," I have the honor to submit for your consideration the following facts: When the bill was referred to this department for report, examination was made by field officers to ascertain the character of each of the lands purposed to be exchanged. My report to the chairman of the Committee on Public Lands of the House of Representatives is in part as follows:

"This claim is approximately 6,000 feet above sea level. It lies near the head of Cold Spring Creek, which flows through the center of the claim to the west. The larger portion of the claim is open ground, which, after the removal of the brush, has been seeded to grass and is an excellent hay meadow. There is only a very small amount of timber upon the claim, and the total stand would not exceed 2,000 feet b. m. of pine and 10,000 feet b. m. of spruce. The land is without doubt more valuable for agricultural than for forest purposes, and is not needed for any public use."

From the above report you will see that this department considered only the value of the two tracts which was determined from the field examination, and no consideration was given to previous attempts of persons, including Mr. Baird, who sought to acquire title to the lands to be exchanged. Since the Government will acquire for national-forest purposes a tract of land chiefly valuable for forest growth and the land to be patented to Mr. Baird is chiefly valuable for agricultural purposes, I have no objection to your approval of the bill.

I have the honor to be, sir, very respectfully,
Your obedient servant, JAMES WILSON, *Secretary.*

AFFIDAVIT.

STATE OF WYOMING,
County of Laramie, ss:

John L. Baird, of lawful age, being first duly sworn according to law, on his oath deposes and says that on the 24th day of October, A. D. 1907, he entered into a written agreement with the executors of the estate of James Callanan for the lease of certain lands situated in Lawrence County, S. Dak., including the lands embraced in what is

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known as "the Keenstone placer," Survey No. 1947. The said agreement also contemplated the ultimate purchase of the tract and involved the purchase of certain personal property then situated on the land in question, consisting of furniture, tools, wagons, and horses, for which the sum of $1,000 was paid.

That the affiant at no time participated in or took any part in attempting to secure patent on the land in question under the placer mining laws; that, as a matter of fact, he had no knowledge, and he has no knowledge now, as to what is required for the securing of a patent under the said act; that he entered into said agreement and made the said purchase in perfect good faith and with the understanding that the parties had a valid claim upon which they had fully complied with the law, and under which they were entitled to a patent; that after he learned that the parties were unable to secure title to the ground he took the matter up with the Forestry Service with a view of exchanging other lands of larger acreage and higher forestry value for these lands; and though the Forestry officials were favorable to the exchange, he learned it was necessary to have legislation to secure the exchange.

In witness whereof the said John L. Baird has hereunto subscribed his name this 1st day of April, A. D. 1912.

JOHN L. BAIRD.

Subscribed and sworn to before me this 1st day of April, A. D. 1912.

[SEAL.] T. J. FISHER,
Clerk of the District Court.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 586.

ENTRY OF AGRICULTURAL LANDS WITHIN FOREST RESERVES.

APRIL 22, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MONDELL, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 20480.]

The Committee on the Public Lands, to whom was referred House bill 20480, submit the following report:

On June 11, 1906, the Congress passed an act to provide for the entry of agricultural lands within forest reserves (public, No. 220). Section 4 of this act excepts from the operation of the act that portion of the Black Hills Forest Reserve in Lawrence and Pennington Counties, in South Dakota, for the reason that portions of said counties contain mineral lands, and it was desired that no new homestead settlements should be made until opportunity should be had to determine what portions of the said counties might properly be classed as mineral and what portions agricultural in character.

On February 8, 1907, the Congress passed an additional act (public, No. 72), excepting certain townships in Pennington County, S. Dak., from the restrictions of section 4 of the original act, and permitting homestead settlement upon the agricultural lands within such townships.

The present bill is of the same character as the act of February 8, 1907, and will permit agricultural settlement in certain additional townships in Lawrence and Pennington Counties, in accordance with the general provisions of the homestead act of June 11, 1906, already referred to.

This bill is now proposed from the fact that these additional townships have been shown not to be mineral in character, but to contain large areas of good agricultural land, adapted to homestead settlement and development.

The committee recommends the passage of the bill. There are attached hereto a report from the Secretary of Agriculture of March 19, 1912, and the report of the Secretary of the Interior of March 25, 1912, favorable to the bill.

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DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, March 19, 1912

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands,
House of Representatives.

DEAR MR. ROBINSON: Your letter of March 14, inclosing a copy of the bill (H. R. 20480) introduced by Mr. Martin of South Dakota to authorize the settlement under the act of June 11, 1906, of certain lands now excepted from the provisions of that act, is received.

The act of February 8, 1907 (34 Stat., 883), authorized the settlement of certain lands in the Black Hills National Forest which prior to that time could not be entered because of the limitation in the act of June 11, 1906 (33 Stat., 233). After the bill was passed, however, it was discovered that certain of the townships described in the act of February 8, were not wholly within Pennington County, as recited in the act of February 8 (supra). For that reason the two top rows of sections in township 2 north, ranges 1 and 2 east, which are in Lawrence County, have not been subject to entry under the act of June 11, 1906. The bill (H. R. 20480) now proposes to have these two top rows of sections, and also two other full townships, made subject to the provisions of the forest homestead act. From data in the Forest Service it is learned that there are some tracts of land chiefly valuable for agriculture within the area described by the bill now under consideration. Since it is the policy of this department to put all lands within national forests to their best use, and this bill is in direct line with that policy, this department has no objection to its passage.

Very sincerely, yours,

W. M. HAYS,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, March 25, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands, House of Representatives.

SIR: I have the honor to acknowledge receipt of your letter of the 14th instant, inclosing a copy of H. R. 20480, entitled: "A bill excepting certain lands in Lawrence and Pennington Counties, South Dakota, from the operation of the provisions of section four of the act approved June eleventh, nineteen hundred and six, entitled 'An act to provide for the entry of agricultural lands within forest reserves.'"

It is proposed in the said bill to except from the operation of the provisions of section 4 of the act of June 11, 1906 (34 Stat., 233), T. 3 N., R. 1 E., and that part of T. 2 N., R. 1 E., and T. 2 N., R. 2 E., in Lawrence County, and T. 1 N., R. 3 E., B. H. M., in Pennington County. The provisions of this bill are similar to those of the act of February 8, 1907 (34 Stat., 883).

This department has no objection to the passage of the said bill and knows of no reason why the same should not be enacted into law. The matter is, however, one with which the Department of Agriculture is more directly interested and familiar, having jurisdiction in the administration of the national forests.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 587.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

APRIL 22, 1912.—Ordered to be printed.

Mr. SULZER, from the committee of conference, submitted the following

CONFERENCE REPORT.

[To accompany H. R. 19212]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19212) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1913, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 4, 5, 6, 7, 11, 17, 26, 27, 28, and 31.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 9, 10, 14, 16, 18, 19, 20, 21, 22, 23, 24, 25, 29, and 30, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *forty-five thousand dollars;* and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *five hundred and fifty-five thousand five hundred dollars;* and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *three hundred and fifty-five thousand dollars;* and the Senate agree to the same.

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Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *thirty-five thousand dollars;* and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *, together with the unexpended balance of the appropriation made for this object for the fiscal year nineteen hundred and twelve, which is hereby reappropriated and made available for this purpose*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *three hundred and forty thousand dollars*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows:

In lieu of the sum proposed insert: *four hundred and fifty thousand dollars*; and the Senate agree to the same.

WM. SULZER,
H. D. FLOOD,
W. B. MCKINLEY,
Managers on the part of the House.

CHARLES CURTIS,
F. E. WARREN,
B. R. TILLMAN,
Managers on the part of the Senate.

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STATEMENT OF MANAGERS ON THE PART OF THE HOUSE.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 19212) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1913, submit the following written statement in explanation of the effect of the action agreed upon and recommended in the accompanying report as to each of said amendments, namely:

On amendment No. 1, strikes out the increase of $1,000 per annum to the agent and consul general at Cairo, as proposed by the Senate.

On amendment No. 2, appropriates $45,000 for chargé d'affaires ad interim, instead of $40,000 as proposed by the House and $50,000 as proposed by the Senate.

On amendment No. 3, makes the total correspond to the amounts agreed upon.

On amendments Nos. 4, 5, 6, and 7, strikes out the increases of $900 per annum for each of the secretaries to Japan, Turkey, and China, as proposed by the Senate, and makes the total correspond to this action.

On amendment No. 8, changes the phraseology of the bill without changing the sense in any way.

On amendments Nos. 9 and 10, appropriates $2,000 for an assistant Turkish secretary to the Embassy to Turkey, as proposed by the Senate, and makes the total correspond to this action.

On amendment No. 11, restores the word "repairs," as proposed by the House, thus making the sum carried by "Contingent expenses, foreign missions," available for this purpose.

On amendment No. 12, appropriates $355,000 for contingent expenses, foreign missions, instead of $300,000 as proposed by the House and $375,000 as proposed by the Senate.

On amendment No. 13, appropriates $35,000 for transportation of diplomatic and consular officers in going to and returning from their posts, instead of $25,000 as proposed by the House and $50,000 as proposed by the Senate.

On amendment No. 14, changes the word "Legation" to "Embassy."

On amendment No. 15, reappropriates and makes available the unexpended balance of the appropriation for the fiscal year 1912, for "Emergencies arising in the Diplomatic and Consular Service," instead of reappropriating and making available said balances for the fiscal years 1910, 1911, and 1912, for this purpose, as proposed by the Senate.

On amendment No. 16, strikes out the words "for the year ending June 30, 1913," from the appropriation for the International Bureau of Weights and Measures.

On amendment No. 17, strikes out the provision appropriating $10,000 for the repairs to legation and consular buildings, as proposed by the Senate.

On amendment No. 18, appropriates $2,500 for the Bureau of the Interparliamentary Union for the Promotion of International Arbitration at Brussels, as proposed by the Senate.

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On amendment No. 19, appropriates $5,000 for the International Institute of Agriculture at Rome, as proposed by the Senate.

On amendment No. 20, appropriates $400 for the International Railway Congress, as proposed by the Senate.

On amendment No. 21, strikes out the words "for the calendar year 1913," from the item for the International Sanitary Bureau, as proposed by the Senate.

On amendment No. 22, appropriates $1,300 for the International Seismological Association, as proposed by the Senate.

On amendment No. 23, inserts the words "in accordance with the special agreement concluded for that purpose August eighteenth, nineteen hundred and ten, and the schedules of claims thereunder, including office rent in the District of Columbia, and," in the paragraph relating to the arbitration of outstanding pecuniary claims between the United States and Great Britain, as proposed by the Senate.

On amendment No. 24, appropriates, in the language and amount proposed by the Senate, $40,000 for the International Congress of Hygiene and Demography, instead of $10,000 as proposed by the House.

On amendment No. 25, appropriates $7,156 for the Permanent International Council for the Exploration of the Sea, as proposed by the Senate.

On amendment No. 26, strikes out the appropriation of $50,000 for the Second Pan-American Scientific Congress, as proposed by the Senate.

On amendment No. 27, strikes out the appropriation of $2,500 for the compilation of Chinese Treaties, as proposed by the Senate.

On amendment No. 28, strikes out the appropriation of $5,000 for the International Conference on Maritime Law, as proposed by the Senate.

On amendment No. 29, appropriates $5,900 for the International Radiotelegraphic Conference, as proposed by the Senate.

On amendment No. 30, appropriates $15,000 for expenses of Consular inspectors instead of $10,000, as proposed by the House.

On amendment No. 31, strikes out the appropriation of $10,000 for 10 additional consular assistants, as proposed by the Senate.

On amendment No. 32, appropriates $340,000 for allowance for clerk hire at United States consulates, instead of $300,000 as proposed by the House and $350,000 as proposed by the Senate.

On amendment No. 33, appropriates $450,000 for "Contingent expenses, United States consulates," instead of $400,000 as proposed by the House and $471,600 as proposed by the Senate.

The bill as finally agreed upon appropriates $3,638,047.41, and is $350,469 less than the appropriations for the current fiscal year.

WM. SULZER,
HENRY D. FLOOD,
WILLIAM B. MCKINLEY,
Managers on the part of the House.

Dated April 22, 1912.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 588.

INJUNCTIONS IN LABOR DISPUTES AND AGREEMENTS AMONG WORKINGMEN AND FARMERS.

APRIL 22, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. WILSON of Pennsylvania, from the Committee on Labor, submitted the following

REPORT.

[To accompany H. R. 23189.]

The Committee on Labor, to which was referred the bill (H. R. 23189) to make lawful certain agreements between employees and laborers and persons engaged in agriculture and horticulture, and to limit issuance of injunctions in certain cases, and for other purposes, submits the following report, with a recommendation that the bill do pass with the following amendment:

On page 2, line 18, after the word "on," insert the words "business in such relation."

The bill as amended by the committee will read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be unlawful for persons employed or seeking employment to enter into any arrangements, agreements, or combinations with the view of lessening the hours of labor, or of increasing their wages, or of bettering their condition; nor shall any arrangements, agreements, or combinations be unlawful among persons engaged in horticulture or agriculture when made with the view of enhancing the price of agricultural or horticultural products; and no restraining order or injunction shall be granted by any court of the United States, or by any judge thereof, in any case between an employer and employee, or between employers and employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment in any case, or concerning any agreement, arrangement, or combination of persons engaged in horticulture or agriculture with the view of enhancing prices as aforesaid, or any act or acts done in pursuance thereof, unless in either case said injunction be necessary to prevent irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be sworn to by the applicant or by his agent or attorney.

In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and create a new relation of employer and employee and to perform and carry on business in such relation with any person in any place or do work and labor as an employee shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law.

SEC. 2. That no person or persons who are employed or seeking employment or other labor shall be indicted, prosecuted, or tried in any court of the United States

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for entering into any arrangements, agreements, or combinations between themselves as such employees or laborers, made with a view of lessening the number of hours of labor or increasing their wages or bettering their condition, or for any act done in pursuance thereof, unless said act is in itself unlawful; nor shall any person or persons who may enter into any arrangements or agreements or combinations among themselves for the purpose of engaging in horticulture or agriculture with a view of enhancing the price of agricultural or horticultural products, be indicted, prosecuted, or tried in any court of the United States on account of making or entering into such arrangements, agreements, or combinations, or any act done in pursuance thereof, unless said act is in itself unlawful.

The purpose of this bill is to make arrangements, agreements, or combinations of wageworkers or farmers lawful which the courts in interpreting the Sherman antitrust law have held to be illegal combinations in restraint of trade, and to restrict the injunctive power exercised by the courts over personal relations between individuals where no real property right is endangered or involved, and relegating causes in such personal relations to the adjudication of the law courts.

There has been some doubt expressed as to whether or not the Sherman antitrust law was ever intended to apply to organizations of workingmen and farmers when dealing with their own labor or the products of their own labor; but whether or not it was intended to apply to organizations of that character the fact remains that it has been applied to them. An examination of the debates in the Senate discloses the fact that the author of the law, Senator Sherman, did not intend it to be and did not believe that it would be applied to organizations of workingmen or farmers. In the debate on the bill in the Senate on March 21 and March 24, 1890, Senators Hiscock and Teller called attention to the possibility of the measure applying to organizations of that character. Replying, Senator Sherman said:

The bill as reported contains three or four simple propositions which relate only to contracts, combinations, agreements made with a view and designed to carry out a certain purpose which the laws of all the States and of every civilized community declare to be unlawful. It does not interfere in the slightest degree with voluntary associations made to affect public opinion to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. They are not business combinations. They do not deal with contracts, agreements, etc. They have no connection with them. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay if you please, to get their fair share in the division of production are not affected in the slightest degree, nor can they be included in the words or intent of the bill as now reported.

There is a great difference in the effect upon the community between an association of farmers organized for their general welfare to protect themselves against the price of the products of their labor being arbitrarily depressed by the real combinations in restraint of trade, or associations of workingmen organized for the purpose of promoting their welfare and disposing of their labor power to the best advantage, and the combinations of those who deal in the products of labor for the purpose of being able to force down the price paid to the producer and force up the prices paid by the consumer. In the case of the former the welfare of the community is protected; in that of the latter the welfare of the community is injured.

The extension of the writ of injunction from the field of the protection of property rights into the personal relationship between man

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and man is a renaissance of the theory of government by discretion long since discarded by the Anglo-Saxon people.

For more than a thousand years there has been a continual conflict between the principle of government by law and the practice of government by discretion with the discretion vested first in the King and later in his representative, the chancellor or judge. Government by law is a government of democracy; government by discretion is a government of autocracy.

Injunctions in labor disputes are innovations in our modern jurisprudence. The original purpose for which injunctions were issued was to restrain parties to any dispute about the title or damages to property from interfering with the property in question, until the courts had determined the property rights involved. These restraining orders were made returnable at the next term of court, or at the session of court where the cases were to be heard and determined, and consequently were never permanent, expiring by their own limitations when the court had convened to determine the question at issue. That they are clearly intended to protect property rights and property rights only is demonstrated by the fact that the courts invariably insist upon a bond being furnished by the parties suing out the writ to indemnify the parties enjoined for any loss that may accrue to them by virtue of the writ having been issued. When such an order of court has been issued it is not a difficult matter for the court to determine the actual damages, if any, that have been sustained through the issuance of the injunction, thereby protecting the restrained parties against any unwarranted invasion of their rights, but when the court issues an injunction in a labor dispute, restraining persons in controversy with employers from doing those things that they have a legal and moral right to do, and as a result of that injunction the contest is lost to the workers, there is no court on earth that can determine the damage that has been sustained by the persons enjoined, and consequently they can not recover from the bond. When the court arrogates to itself the power to issue injunctions never contemplated by the rules of equity, and in direct violation of constitutional and statutory law, and assumes the right to issue injunctions for the purpose of enforcing criminal law, it departs from the domain of property rights and invades that of personal rights in a manner for which there can be no excuse except that the court thereby becomes the sole judge of the law and the fact, and, if the parties enjoined are declared guilty of contempt, the extent of the punishment. All of which is in direct violation of the fundamental laws of the land and the Anglo-Saxon concept of human liberty, as shown by the efforts of the people for more than a thousand years to destroy the arbitrary automatic power of kings and judges.

The peace of Wedmore, concluded between Alfred the Great and Guthram the Dane, A. D. 878, provided that "If a King's thane be charged with the killing of a man, if he dares to clear himself let it be before 12 King's thanes."

The great charter of human liberty, the Magna Charta of Great Britain, the basis upon which British and American freedom rests, in clause 39 declares:

> No freeman shall be taken or imprisoned, disseized, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him, save by the lawful judgment of his peers or by the law of the land.

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The Bill of Rights enunciated by the British Parliament for the protection of the common people and signed by William and Mary upon their accession to the British throne, as a condition upon which their title to sovereignty would rest, declares:

Paragraph 1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

Paragraph 2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

The Declaration of Independence declares: "That all men are created equal, that they are endowed by their Creator with certain inalienable rights, and that among these are life, liberty, and the pursuit of happiness," and it further assigns as one of the causes for the separation from the mother country and the establishment of an independent government, "for depriving us in many cases of the benefits of trial by jury."

The Constitution of the United States, which creates our judiciary, gives to it whatever power it can possibly exercise, and limits its jurisdictions, says, Article III, section 1: "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

First amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

Sixth amendment. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Ninth amendment. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Tenth amendment. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

Thirteenth amendment, section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

It must be apparent to even the most casual investigators that the courts of the United States hold the same relationship to the Government of our country that the courts of Great Britain held and now hold to the regal power. No one will contend that any judge in Great Britain, either at the time of the adoption of our Constitution or since that time, could have any greater power than that conferred by regal authority expressed by the Parliament and approved by the King. It naturally follows that our courts can have no greater power than that granted to them by the Constitution.

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When the Constitution granted to our judiciary jurisdiction in equity it was only such power in equity as arises under the Constitution and the laws, and it could not have conveyed any wider authority than that which existed in English jurisprudence at the time of the adoption of the Constitution, and the quotations cited from the Magna Charta, the Bill of Rights, and the Declaration of Independence absolutely deny the right of equity courts to create laws regulating the relations between man and man where no property right exists. Our Government is not only one of delegated powers but also of reserved powers. The same instrument that created the judiciary and delegated powers to it reserves all the powers that are not thus delegated to the various States and to the people. When, therefore, any court assumes to exercise powers not delegated to it by the Constitution, it invades the rights specifically reserved by that document to the States and people.

Notwithstanding the constitutional limitations mentioned, modern injunctions have taken three distinct lines, two of which are unconstitutional, arbitrary, and unjust.

1. Injunctions are issued to protect property rights from irreparable injury where there is no remedy at law. That is the only province in which an injunction properly belongs.

2. Injunctions have unwarrantably been issued for the purpose of enforcing existing statutory and common law arbitrarily invading the jurisdiction of the legislatures and the law courts, thus wiping out of existence that protection against false accusations that freemen have fought for and forced from the hands of autocratic kings and tyrannical governments and defended at the cost of their lives, in many conflicts with royalty, the right of trial by jury.

When the legislative branch of the Government has specified the punishment for any violation of law it has provided what, in its judgment, is an adequate remedy and means of protection, and having provided such remedy no court has any right to step in over the head of the legislature and provide another remedy.

3. Modern American courts assume the right to issue injunctions interfering with the personal rights of men in exercising free speech, free press, peaceable assemblage, and in their personal relationship with each other. The rights of free speech, free press, and peaceable assemblage are specifically guaranteed by the Constitution. They are the fundamental safeguards of a free people which neither courts, kings, nor cajolery should be permitted to destroy. The personal relationship between man and man comes clearly within the jurisdiction of the law courts and has no place in the courts of equity, unless upon the assumption by the courts that man is property, an assumption repugnant to the sense of right of all civilized communities and specifically forbidden by the thirteenth amendment to the Constitution of the United States.

As the judicial power extends only to cases in law and equity arising under the Constitution, the laws of the United States, or treaties made under their authority, it seems clear that, aside from equity proceedings growing out of the treaties, the only equity power which the judiciary can exercise is to be found in the original jurisdiction granted by the Constitution and such additional jurisdiction as may be conveyed by law. The original jurisdiction granted by the Constitution, aside from that already stated, is found in section 2

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of Article III of the Constitution, which provides that it shall extend to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens of subjects. Even that power is limited by the eleventh amendment, which says, "The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State or by citizens or subjects of any foreign State." In all other cases the judicial power extends to cases arising under the law. Congress has on various occasions created courts and limited the jurisdiction of the courts thus created. That is true of the Court of Claims and the Commerce Court. There is no question in the mind of your committee of the constitutional power of Congress to limit the jurisdiction of the courts so that it will not extend to the writ of injunction in the cases mentioned in the bill. The extent to which the judicial power has been exercised in recent years in issuing writs of injunction in labor disputes in a manner which would not be considered if no disputes were in existence makes it necessary that some legislation of this character should be enacted. The first writs of this character issued restrained acts of violence only. From that they have gradually broadened until it has become the practice to enjoin men from inducing others to leave their employment or not to enter employment, or from assembling at, near, or within sight of the complainant's property, or from furnishing food, money, or other things of value to workmen on strike, or from moving strikers away from the strike locality, or from exercising the constitutional right of free speech or of free press, or from refusing to patronize people who are obnoxious to them.

It may be that some of these things which they are restrained from doing are wrong, and that they should not be permitted to do them; but if that be true, the legislative branch of the Government should prohibit by law the things that are wrong, and the law courts, not the equity courts, determine the fact of whether or not there has been any violation of the law. By any other course a grave injustice is done to that portion of our people who are least able to protect themselves.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 589.

CONTINUATION OF PEACE COMMISSION.

APRIL 23, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CLINE, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. J. Res. 66.]

The Committee on Foreign Affairs, having had under consideration House joint resolution 66, recommends that the same do pass, with an amendment, which is hereby indicated in the report.

The Sixty-first Congress passed a joint resolution reading as follows:

[PUBLIC RESOLUTION—No. 47.]

[H. J. Res. 223.]

JOINT RESOLUTION To authorize the appointment of a commission in relation to universal peace.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission of five members be appointed by the President of the United States to consider the expediency of utilizing existing international agencies for the purpose of limiting the armaments of the nations of the world by international agreement, and of constituting the combined navies of the world an international force for the preservation of universal peace, and to consider and report upon any other means to diminish the expenditures of government for military purposes and to lessen the probabilities of war: *Provided*, That the total expense authorized by this joint resolution shall not exceed the sum of ten thousand dollars, and that the said commission shall be required to make final report within two years from the date of the passage of this resolution.

Approved, June 25, 1910.

In the pending joint resolution it is proposed to extend the life of this commission for two years and to continue the appropriation already made for that purpose for the same length of time. Owing to the negotiations for general arbitration treaties between the United States and other countries, and also because the President has been communicating with a number of other Governments with a view to inducing them to appoint similar commissions, it was deemed expedient to wait with the appointment of the American commission until other Governments could declare themselves with regard to the policy of such contemplated action. The Committee on Foreign Affairs have learned that the time for the appointment of the American commis-

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sion has now come, the President being ready to proceed with the appointment of its members. We, therefore, recommend the passage of this resolution.

We also recommend the following amendment:

That the law authorizing the appointment of said commission approved June twenty-fifth, nineteen hundred and ten, shall be and remain in force for two years from the twenty-fifth day of June, nineteen hundred and twelve.

Said amendment to be inserted immediately after the word "read" in line 6 of said joint resolution.

CYRUS CLINE.
RICHARD BARTHOLDT.
W. S. GOODWIN.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 590.

ALIEN INSANE.

APRIL 23, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. BURNETT, from the Committee on Immigration and Naturalization, submitted the following

REPORT.

[To accompany H. R. 19544.]

The Committee on Immigration and Naturalization, to which was referred the bill (H. R. 19544) to amend section 9 of the immigration act approved February 20, 1907, reports the same with the following amendments and recommends that it be passed:

After the word "amended," in line 4, page 1, insert the words "so as to read."

Strike out lines 6 and 7 on page 1.

Insane persons are excluded under the present law, but in section 9, which imposes a penalty upon transportation companies for bringing to the United States certain classes of inadmissible immigrants, they are omitted from the several classes there enumerated. Thus, while expressly excluded, no penalty attaches to their being brought to the ports of the United States. This absence of penal responsibility on the part of the transportation companies is conducive to negligence in regard to alien insane, and many are being brought to our shores.

This bill amends section 9 of the present law by including "insane persons" among the enumerated classes of excluded aliens against whose transportation to the United States a penalty is there imposed. It also raises the penalty from $100 to $200 for each and every violation of the provisions of that section.

An acute condition has arisen in certain sections of the country, conspicuously in New York State, where great numbers of insane aliens become the inmates of the State hospitals and are cared for at the State's expense. This imposes a tremendous burden upon the State from a financial standpoint as well as throwing it into jeopardy from excessive numbers of insane aliens.

The Commissioner of Immigration in his report for the fiscal year ended June 30, 1911, has this to say in regard to the question:

One of the most useful provisions of the present statute is section 9, by which a fine of $100 is assessed against any steamship line that brings to a United States port an alien afflicted with a loathsome or dangerous contagious disease, or with tuberculosis, or

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with idiocy, imbecility, or epilepsy. During the past year such fines were assessed in 246 cases, the aggregate amount being $24,600, of which $23,700 was on account of the first, $100 on account of the second, and $800 on account of the third class, respectively. It is believed this statute would be much more effective, however, if the amount of the fine were made considerably larger—sufficiently large to compel the transportation companies as a measure of self-protection to use greater care in the medical inspection of embarking passengers. The fine should also be made to cover cases of insanity, a class omitted from the present statute probably by inadvertence.

On page 9, report of New York State Board of Alienists for the year ended September 30, 1911, is the following:

It must be remembered that foreign countries look with favor upon the emigration to America of diseased and defective persons. Examination by American officials at the ports of embarkation in Europe has been strenuously opposed by certain foreign Governments, and it is a notorious fact, commented upon in every annual report of the Commissioner General of Immigration, that the steamship companies make only the most perfunctory medical examination of passengers upon their departure for America. Thus there are no obstacles in the way of diseased persons embarking for this country. In the case of those returning, however, the conditions are reversed. The passengers are carefully scrutinized by ships' surgeons at the gangway, as they embark at the port of New York, and those who do not satisfy the steamship officials or the representatives of foreign Governments stationed on such ships are peremptorily refused passage, even although they have been only a short time away from the countries to which they still owe allegiance. Cases are not decided individually, upon their merits, but as soon as it is learned that an applicant for passage has been in an institution for the insane he is at once rejected. It can be seen that, with an unimpeded flow of inferior immigrants to this country, and with an outflow which is so carefully regulated that only the prosperous and sound can return, we must ultimately become the asylum for an increasing number of those unable to sustain themselves.

On page 22 of the same report is the following:

For the first few years after the commencement of that remarkable migration of the races of southern and eastern Europe to this country (to which Austria-Hungary, Italy, and Russia have contributed nearly 500,000 persons a year) it is noted that the increase of patients of those nationalities in the State hospitals was gradual. By 1905, however, it was possible to predict that when the effects of the "new immigration" commenced to be felt the "old immigration" (of Germans, Irish, and Scandinavians) would be outdone in the numbers of insane added to the foreign-born population of our State hospitals. To-day that prediction is fulfilled, and during the year more than 55 per cent of the aliens deported by the United States Immigration Service were natives of those three countries.

The New York Times of March 28, 1912, says:

INSANE ALIENS.

The Times is informed by Secretary McGarr, of the State commission in lunacy, that of the 31,432 insane patients under treatment in the 14 State hospitals on February 10 last, 13,163, or 41.9 per cent, were aliens. Foreign-born patients have increased since the Federal census of December 31, 1903, by 1,552, or 13.4 per cent. In the two State hospitals for the criminal insane there were 1,230 patients on February 10, of whom nearly 44.4 per cent were of alien birth; the Federal census of 1910 showed a percentage of aliens to total population in this State of 29.9 per cent.

The prevalence of insanity among immigrants is evidently much greater than among the native born. Of the 5,700 patients admitted to the civil hospitals for the year ending September 30, 1911, 2,737, or 48 per cent, were aliens, and 1,481, or 26 per cent, were of alien parentage, while only 1,224, less than 26 per cent, were of native stock. Of the whole number, the nativity of but 218, which is 3.8 per cent, was not ascertainable. Insanity among the foreign peoples of this city occurs in a still larger percentage of cases. Of the first admissions to the hospitals 2,006 out of 3,221 residents of the city were of foreign birth; that is 64.1 per cent, although the foreign-born population is but 40.4 per cent of the whole.

With the inadequate facilities for the examination of the vast numbers who come to our ports during the spring months, many undesirable immigrants, especially the feeble-minded and otherwise mentally deficient, escape detection and are allowed to enter every year.

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It is believed that the present bill, by including insane persons among those excluded classes against whose transportation to the United States a penalty is imposed, and increasing that penalty from $100 to $200, will cause the transportation companies to exercise greater care and diligence against receiving such aliens at the foreign ports of embarkation as a measure of self-protection and that the number brought to America will thereby be correspondingly reduced.

The urgency of some legislation of this nature is apparent, and the committee, believing that this bill will to a great extent provide relief, recommends its immediate passage.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 591.

LEGISLATIVE ASSEMBLY FOR ALASKA.

APRIL 23, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FLOOD of Virginia, from the Committee on the Territories, submitted the following

REPORT.

[To accompany H. R. 38.]

The Committee on the Territories, to whom was referred the bill (H. R. 38) to create a legislature in the Territory of Alaska, to confer legislative power thereon, and for other purposes, having had the same under consideration, reports it back with an amendment, and with the recommendation that the bill as amended do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 592.

EXTENSION OF BOUNDARIES, INCORPORATED TOWNS IN ALASKA.

APRIL 23, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. DAVENPORT, from the Committee on the Territories, submitted the following

REPORT.

[To accompany H. R. 17592.]

The Committee on Territories, to whom was referred the bill (H. R. 17592) to authorize the extension of the boundaries and to include additional areas within incorporated towns in Alaska, having duly considered the same, reports the bill without amendment and recommends that it do pass.

The committee finds that the act of April 28, 1904, entitled "An act to amend and codify the laws relating to municipal corporations in the District of Alaska" provides that any community in Alaska having 300 or more permanent inhabitants may incorporate as a municipal corporation. The act provides that a petition signed by 60 or more residents of the community praying for such incorporation and describing the boundaries of the proposed town shall be presented to the judge of the United States district court in the district where the town is located. The statute provides that public notice shall be given and that those who favor and those who do not favor incorporation shall be heard by the judge. If the judge is satisfied that it is for the best interest and welfare of the community to incorporate he is authorized to call an election in the community and the people within the boundaries so finally settled by the court shall have the right to vote for or against the incorporation. The law provides for the canvass of the election by the officials appointed by the court, and if the incorporation is carried the area included within the boundaries described in the order of the court calling for the election becomes an incorporated town in Alaska.

The defect in the law, which H. R. 17592 is intended to supply, is that there is no law to authorize the extension of the boundaries or to include therein any additional area. It has been shown to your committee that both at Ketchikan and Valdez additional area immediately adjoining the incorporated area has been divided into lots, blocks, streets, and alleys, and the town extended outside of the

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incorporated area. In Ketchikan the incorporated area extends to the line of the ordinary high tide, but it has been shown to your committee that between that line and the line of deep water there is a considerable area which has been covered with docks, city blocks, hotels, stores, churches, and all manner of business houses and dwellings which are not within the town limits as incorporated, but require more police and fire protection and more street work than the town itself.

It is proposed to extend the town boundaries so as to include this frontage of Ketchikan. No part of it now pays taxes to support police protection, fire protection, or road and street work. All the licenses collected within this part of Ketchikan are paid into the United States Treasury and carried into the Alaska fund, and 70 per cent thereof is used for building wagon roads more than 500 miles away from Ketchikan, and the remaining 30 per cent is used for maintaining public schools in distant localities.

The situation at Valdez is similar, but was worse than that at Ketchikan. It is for the purpose of enabling these communities to extend the boundaries of their incorporated areas to include adjoining areas that the bill is now reported favorably.

There is now no law to accomplish the purpose contemplated in the bill reported; it is necessary for the proper growth and development of towns in Alaska, and the committee recommends its passage.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 593.

LEGALIZING CONVEYANCES MADE BY UNION PACIFIC RAILWAY CO.

APRIL 24, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. NORRIS, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 16689.]

The Committee on the Judiciary, to which was referred the bill (H. R. 16689) to legalize certain conveyances heretofore made by the Union Pacific Railroad Co. and its successors, having considered the same, report thereon with the recommendation that it pass with the following amendments:

First. Page 1, line 3, after the word "by," insert the following: "And all rights acquired by adverse possession against."

Second. Page 1, line 3, after the amendment just suggested, the word "the" before "Union" should begin with a capital letter.

Third. Page 1, line 4, after the word "or," strike out the word "by."

Fourth. Page 1, line 5, the word "the," preceding the word "Union," should begin with a capital letter.

Fifth. Page 2, add a new section, as follows:

SEC. 2. That all conveyances, agreements, or acts heretofore made or done by, and all rights acquired by adverse possession against The Union Pacific Railroad Company, or the Union Pacific Railway Company, or The Denver Pacific Railway and Telegraph Company, or the successors or assigns of any of them, conveying any land forming a part of the right of way between Denver, Colorado, and Cheyenne, Wyoming, of or by any of said companies under any act of Congress or defining the limits of said right of way or restricting the same, are hereby legalized, validated, and confirmed: *Provided*, That said conveyances, agreements, or acts shall not have the effect to diminish said right of way to a less width than fifty feet on each side of the center of said railroad as now established and maintained.

The necessity for this legislation is brought about on account of a dispute that has arisen within the last few years regarding the width of the right of way of the Union Pacific Railroad Co. While the bill as introduced is general in its terms, the controversy exists principally along the said line of said railroad in the State of Nebraska and in Colorado on the line of said road running from Denver to Cheyenne. The

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railroad company claims that its right of way is 400 feet wide, while the abutting owners in the State of Nebraska claim that the right of way through that State is only 200 feet wide, and as far as the controversy in that State is concerned it is this 100 feet on each side of the right of way that is in dispute. In the line running from Denver to Cheyenne, particularly where the road passes through the city of Greeley and some other towns and villages, while the railroad company is claiming a width of 400 feet for its right of way, the abutting property owners claim that said right of way is only 100 feet wide.

In order to understand the situation it is necessary to review briefly some of the history of congressional legislation as it applies to this railroad. The first legislation on the subject was an act of Congress, passed in 1862, providing for the organization of the Union Pacific Railroad. This act provided for the incorporation of the company and granted it certain public lands as a bonus. The act contains the following provision:

> That the right of way through public lands be, and the same is hereby, granted to the said company for the construction of said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass over public lands, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, sidetracks, turntables, and water stations.

Other parts of the act made various provisions for the filing of maps, etc., and for the definite location of the railroad, and contained provisions as to the time of commencing the construction of the road. The act was formally accepted by the company and the terms agreed to, but nothing was actually done by the company toward the construction of such road until after the passage of the act of 1864.

In 1864 Congress passed another act amending the act of 1862. The amendatory act, among other things, doubled the amount of land given the company as a bonus. The odd-numbered sections of land along said right of way were granted to the company. The even-numbered sections still remained public land and subject to entry under the various laws of the United States. Whatever was done by the railroad company in the way of accepting the provisions of the act of Congress, filing the maps of location, etc., was done after the passage of the act of 1864. The said amendatory act of 1864 contained, among other things, the following provisions:

> *And be it further enacted*, That the Union Pacific Railroad Company and all other companies provided for in this act and the act of which this is amendatory be, and are hereby, empowered to enter upon, purchase, take, and hold any land or premises that may be necessary and proper for the construction and working of said railroad, not exceeding in width one hundred feet on each side of its center line unless a greater width be required for the purpose of excavation or embankments, and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station houses, or any other structures required in the construction and operation of the said road.

There is no doubt that upon a fair examination of the evidence and consideration of all the facts surrounding and relating to the building of this road and the settlement of the country adjoining it, that for more than 40 years both the railroad company and the settlers along its line have acted upon the theory that the amendatory act of 1864 fixed the width of the right of way at 200 feet instead of 400 feet, and that the right of way was limited and fixed by the act of 1864, rather than by the act of 1862.

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At the time of the passage of these acts the land in Nebraska over which this railroad was surveyed was almost without exception Government land. After the railroad was built, however, the settlers took up the even-numbered sections under the homestead and preemption laws and made settlements thereon, and in due time patents were issued by the Government to such settlers for such lands. The patents so issued by the Government to the settlers upon the even-numbered sections through which the railroad had been built contained no reservation of the right of way and made no reference whatever to the existence of said right of way over and across such lands, and so far as anything appears on the face of said patents there is no reservation by the Government whatever of any right of way. It is not claimed by any of the owners of these lands that by virtue of such patents they acquired any title whatever to the right of way of the railroad.

It is admitted that notwithstanding the absence of any such reservation, the settlers acquired no title whatever to any land properly included within the railroad right of way, and this fact is mentioned only for the purpose of showing that as far as the Government was concerned, in the issuing of its patents, it conveyed no notice whatever to the settlers of the existence of a right of way 400 feet wide. The odd-numbered sections given as a bonus to the railroad company were sold and conveyed to settlers, and with very few exceptions in the State of Nebraska, when the railroad company made such sale and issued either a contract for a deed or a deed to the land, a reservation was made of only 100 feet on each side of the center of the railroad. On the theory that the railroad right of way was 200 feet instead of 400, fences were built along such line both by the railroad company and by the settlers. The settlers who took up the even-numbered sections under the homestead and preemption laws cultivated their land up to within 100 feet on each side of the railroad. There seemed to be no dispute and no misunderstanding and this condition of things continued for about 40 years. As soon as the railroad company constructed its line of road it laid out towns all along its line on the odd-numbered sections which it owned and which had been deeded to it by the Government under the acts of Congress heretofore referred to. In laying out these towns they were without exception laid out on the theory that the right of way of the railroad company was 200 feet instead of 400 feet. Upon this 100 feet which has since come into dispute improvements were made and streets were laid out.

As a rule, in most of these new towns the principal street ran parallel with the railroad and was improved by the usual improvements and buildings that would be constructed in growing villages and cities. Some of these towns have grown to be cities. In the city of Grand Island, Nebr., this street, known as Front Street, is located entirely on this 100-foot strip of disputed territory. It has for quite a number of years been a paved street and been so maintained by the city. For quite a number of blocks the street is built up with modern buildings and occupied by business houses of various kinds. If this 100 feet were now taken by the railroad company as a part of its right of way it would leave all these buildings without any means of access except through an alley in the rear. All along the line of the railroad throughout this State various kinds of improve-

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ments have been made. In the country the land for the most part is in a high state of cultivation and is worth from $75 to $150 an acre. Where the railroad company, on its odd-numbered sections, sold its land either to farmers or to purchasers of town lots, it has received pay for this 100-foot strip that is in dispute on each side of the line of the right of way. Where the even-numbered sections were taken by settlers and title acquired from the Government these settlers, in most instances, paid to the Government of the United States the sum of $2.50 per acre for all this disputed tract.

Until within a few years ago, no one had questioned the legality of the title of the individual property owners along the right of way. For 40 years lands in the country and lots in the villages and cities had been improved and transferred in the usual course of business, and taxes have been paid upon this disputed strip by such owners, on the theory that they had a perfect title. Within the last two years, however, the railroad company, both in Colorado and in Nebraska, have begun to assert their title and their right to the possession of the entire 400-foot strip, claiming that their title and right of possession is derived from the act of 1862, which fixed the right of way at 400 feet. Various actions have been commenced in both States to acquire possession of the disputed strip and are now pending both in the State and United States courts. An examination of the authorities and the decisions of the Supreme Court will, I think, lead to the conclusion that unless some legislation similar to that intended by this bill is enacted by Congress the railroad company will be successful in these suits and the titles of the property owners to this disputed strip will be annulled and set aside. In many instances, in cities and towns, it will mean the financial ruin of many people whose accumulations of nearly a lifetime will be lost, and all this will be brought about without any possible good or benefit to the railroad company.

The question was first directly passed upon by the Supreme Court of the United States in the case of the Northern Pacific Railway Co. *v.* Townsend (190 U. S. Repts., p. 267). That case arose under a statute enacted by Congress authorizing the construction of the Northern Pacific Railroad Co. It provided that the right of way of the railroad should be 400 feet. The defendant Townsend claimed a portion of the 400 feet by adverse possession, and if the title of the railroad company was such that title to any of its right of way could have been acquired by adverse possession, or could have been deeded away directly by the railroad company, then Townsend had acquired a perfect title. The Supreme Court, however, speaking through Mr. Justice White, now Chief Justice, held that the title of the railroad company to this right of way granted by the act of Congress was such that it had no right to dispose of any of said right of way; that it could not give a valid title and had no authority to convey to any person any part of said right of way, and that therefore no title against the railroad company to any portion of its right of way could be acquired by adverse possession. In passing on this case Mr. Justice White, representing the majority of the court, used the following language:

Manifestly, the land forming the right of way was not granted with the intent that it might be absolutely disposed of at the volition of the company. On th contrary, the grant was explicitly stated to be for a designated purpose, one which negated the

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existence of the power to voluntarily alienate the right of way or any portion thereof. The substantial consideration inducing the grant was the perpetual use of the land for the legitimate purpose of the railroad, just as though the land had been conveyed in terms to have and to hold the same so long as it was used for the railroad right of way. In effect the grant was of a limited fee, made on an implied condition of reverter in the event that the company ceased to use or retain the land for the purpose for which it was granted. This being the nature of th title to the land granted for the special purpose named, it is evident that to give such efficacy to a statute of limitations of a State as would operate to confer a permanent right of possession to any portion thereof upon an individual for his private use would be to allow that to be done by indirection which could not be done directly, for, as said in Grand Trunk Railroad *v.* Richardson (91 U. S., 454, 468), "a railroad company is not at liberty to alienate any part of its roadway so as to interfere with the full exercise of the franchises granted." Nor can it be rightfully contended that the portion of the right of way appropriated was not necessary for the execution of the powers conferred by Congress, for, as said in Northern Pacific Railroad Co. *v.* Smith (171 U. S. 261, 275), speaking of the very grant under consideration: "By granting a right of way 400 feet in width, Congress must be understood to have conclusively determined that a strip of that width was necessary for a public work of such importance." Neither courts nor juries, therefore, nor the general public, may be permitted to conjecture that a portion of such right of way is no longer needed for the use of the railroad and title to it has vested in whomsoever chooses to occupy the same. The whole of the granted right of way must be presumed to be necessary for the purposes of the railroad, as against a claim by an individual of an exclusive right of possession for private purposes.

To repeat, the right of way was given in order that the obligations to the United States assumed in the acceptance of the act might be performed. Congress having plainly manifested its intention that the title to and possession of the right of way should continue in the original grantee, its successors and assigns, so long as the railroad was maintained, the possession by individuals of portions of the right of way can not be treated without overthrowing the act of Congress as forming the basis of an adverse possession which may ripen into a title good as against the railroad company.

The question at once presents itself: What will be the legal effect if we pass the proposed bill? There can be no question but what the enactment of this proposed legislation will give entire relief and will have the effect of validating conveyances made by the railroad company within the limits specified in the bill.

This will be true whether such conveyances were made directly by deed from the railroad company or whether title against the railroad company was acquired by adverse possession under the law of the State where the land is situated. A condition exactly similar to this existed in the case of the Northern Pacific Railway Co. *v.* Ely et al. (197 U. S. Repts., p. 1). This action was one to quiet title, brought by the Northern Pacific Railway Co. against various persons claiming ownership. The defendants in that case had acquired their land through patents issued by the United States, under the preemption and homestead laws, and had been in quiet, peaceful, undisturbed, and undisputed possession thereof for more than 10 years prior to the commencement of the action, and were claiming title by adverse possession under the laws of the State of Washington.

It was admitted by the defendants in the case that the act of Congress of 1864 gave to the railroad company a right of way 400 feet in width, and the only question involved was whether it was possible for private parties to obtain title to a portion of this right of way by adverse possession. The Supreme Court of the State of Washington held in that case that the statute of limitations did run against the railroad company and that the title acquired by the defendants had become absolute. Shortly after this the Supreme Court of the United States rendered the decision in the case of the Northern Pacific Railway Company *v.* Townsend, holding, as we have here-

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tofore seen, that title could not be thus acquired by adverse possession to any portion of the right of way, and within a month after the Supreme Court had rendered this decision in the Townsend case the railway company, by writ of error, took the Ely case into the Supreme Court of the United States and the same was docketed there on the 23d day of July, 1903. While this case was pending in the Supreme Court of the United States, Congress passed the act of April 28, 1904, for the express purpose of remedying the wrong that would have necessarily come about by an affirmance of the Ely case and which it was apparent would necessarily have to be done if the Supreme Court followed their decision in the Townsend case. Section 1 of the act of April 28, 1904, is practically the same as section 1 of the bill now under consideration. That section read as follows:

That all conveyances heretofore made by the Northern Pacific Railroad Company or by the Northern Pacific Railway Company of land forming a part of the right of way of the Northern Pacific Railroad, granted by the Government by any act of Congress, are hereby legalized, validated, and confirmed: *Provided*, That no such conveyance shall have effect to diminish said right of way to a less width than one hundred feet on each side of the center of the main track of the railroad as now established and maintained.

It will be noticed that the remedial legislation in that case was passed while the question was pending in the courts. The facts in that case were very nearly identical with the facts in this case. The legislation in that case was practically identical with the bill in this case. It will be seen, therefore, that the decision in Northern Pacific Railway Company *v.* Ely was upon a state of facts and a condition of law which would be practically identical with existing conditions if the present bill were enacted into law. It is important to note, therefore, that in the Ely case the Supreme Court of the United States, while still adhering to its decision in the Townsend case, gave full effect to the remedial legislation provided in the act of April 28, 1904, above quoted. The decision was rendered on the 20th day of February, 1905, and the first paragraph of the syllabus reads as follows:

Northern Pacific Railway Company *v.* Townsend (190 U. S., 267) affirmed as to the point that individuals can not for private purposes acquire by adverse possession under a State statute of limitations any portion of the right of way granted to the Northern Pacific Railway Co. But by the act of April 28, 1904, that right of way was narrowed to 200 feet in width and title acquired to land outside of a strip of that width was confirmed.

Further on in the opinion the court uses the following language:

The act of April 28, 1904, in view of our decision in that case (Townsend case) was obviously intended to and did have the effect to narrow the right of way to 200 feet in width, so far, at least, as outside of that strip the original right of way had been parted with.

After reviewing the authorities on the question of adverse possession the court sums up the argument as follows:

"Adverse possession, therefore, may be said to transfer the title as effectually as a conveyance from the owner; it may be considered as tantamount to a conveyance."

So far as title to portions of the right of way could be lawfully acquired from the railway company, defendants below, appellees in the Supreme Court, had acquired title to their parcels by adverse possession and occupied the same position as if they had received conveyances, which the act of April 28, 1904, operated to confirm. The act is remedial and to be construed accordingly.

There can be no doubt, therefore, that the passage of this bill would have the effect of validating and confirming all the titles within the 400 strip; but outside of the 200 strip that have been acquired both

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by direct deed from the railroad company in the case of the odd-numbered sections and by adverse possession in the case of the even-numbered sections, where the settlers have obtained title by patent from the United States.

The Colorado situation presents even greater equities in favor of this legislation than is presented by the facts relating to the controversy in Nebraska. The roadbed from Denver, Colo., to Cheyenne, Wyo., was originally graded and built by a local company, known as the Denver Pacific Railway & Telegraph Co. This was done during the years 1868 and 1869. By the act of Congress approved March 3, 1869, a connection was provided for this company and the Union Pacific Railway Co., and land subsidies were given to the Denver Co. along the line between Denver and Cheyenne, as provided by prior acts of Congress.

Under this act, and after its approval, an agreement was entered into whereby the line from Denver to Cheyenne was built over the roadbed which had been graded in 1868 and 1869. In 1870, Horace Greeley organized the Union Colony under the laws of Colorado, and acting on behalf of said colony, Mr. Greeley purchased a large amount of land and laid out the town of Greeley, in Colorado. This was on the line of the railroad running from Denver to Cheyenne. The title to the land upon which Greeley is situated, with the exception of one 40-acre tract, had been acquired from persons who had taken the same under the preemption laws of the United States. These entries were all filed prior to the building of this railroad and prior to the passage of the act of 1869. There was a dispute between the Union Land Co., represented by Horace Greeley, and the railroad company, as to the width of the right of way of the railroad company through the town of Greeley. After some negotiations between the officials of the road and the colony company an agreement was reached satisfactory to both parties. This agreement was incorporated in a deed of conveyance from the colony company to the railway company. The deed was dated on the 21st day of October, 1870, and was delivered by the colony company to the railroad company, and on the 1st day of November, 1870, the railroad company placed the deed on record. This deed is as follows:

UNION COLONY RIGHT OF WAY DEED.

Right of way from Union Colony of Colorado to Denver Pacific Railway & Telegraph Co. Filed for record at 11 o'clock, November 1, 1870. W. J. Kram, recorder.

Whereas the line or tract of the Denver Pacific Railway & Telegraph Co. runs through the lands of the Union Colony of Colorado and within the town plat of Greeley, Weld County, Colorado Territory, and an agreement has been made between the said Union Colony of Colorado and the Denver Pacific Railway & Telegraph Co. by which the said Union Colony of Colorado has agreed to grant to the Denver Pacific Railway & Telegraph Co., being the owner of said lands, a right of way in and over the same.

Now, therefore, know all men by these presents: That the said Union Colony of Colorado, in pursuance of the said agreement and in consideration of the sum of $1 paid to the said Union Colony of Colorado, do hereby give, grant, sell, and convey unto the said Denver Pacific Railway & Telegraph Co. a right of way of 50 feet on each side from the center of the line or track of said Denver Pacific Railway & Telegraph Co. in and over and running through said town plat of Greeley aforesaid on the east side thereof and along the said line of said railway, the said strip of land or right of way being of the width of 100 feet, and commencing at the southeast corner of said town plat of Greeley and running north through the following blocks: 101, 100, 82, 79, 62, 39, 22, 19, and 21 as platted and recorded in the office of the clerk of Weld County, and the said right of way shall be forever of the said dimensions. Also the

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said Union Colony of Colorado does hereby give, grant, sell, and convey unto the said Denver Pacific Railway & Telegraph Co. a right of way of 200 feet along the line or track of the said Denver Pacific Railway & Telegraph Co. and within the blocks Nos. 42 and 59, in the town of Greeley, as platted and recorded in the office of the recorder of Weld County, said right of way commencing at the corner of the line or track of the said Denver Pacific Railway & Telegraph Co. and extending 150 feet to the east side and 50 feet to the west side thereof. The said Union Colony of Colorado agrees to lay out and construct along and east of said right of way a street 66 feet wide running north and south and within the blocks Nos. 42 and 59 aforesaid, and the said right of way shall be forever of the said dimensions.

In further consideration it is expressly agreed between the parties hereto that the said Denver Pacific Railway & Telegraph Co. shall erect within three months from the date of this instrument a good and substantial building for a freight and passenger depot at or near the point of said right of way where the said railway crosses Main Street, in the town of Greeley aforesaid, being on the north side of and along said Main Street.

It is also agreed in further consideration between the parties aforesaid that the said Denver Pacific Railway & Telegraph Co. shall have for its use and benefit only the said right of way without any right or powers to give, grant, sell, convey, or rent the same. It is also agreed that intoxicating liquors shall never be manufactured, sold, or given away in or upon said premises herein conveyed with the knowledge or consent of said Denver Pacific Railway & Telegraph Co., and in case any one of these conditions shall be violated this conveyance and everything herein contained shall be null and void.

To have and to hold the said easements and privileges to the said Denver Pacific Railway & Telegraph Co. forever as appurtenances to the said railway as above described.

In witness whereof the party of the first part has affixed its corporate seal and caused the same to be signed by N. C. Meeker, its agent and attorney in fact, this 21st day of October, A. D. 1870.

[Corporate seal.] N. C. MEEKER, *President.*

Signed and sealed in presence of—
F. M. BABCOCK.
(United States revenue stamp, 50 cents.)

TERRITORY OF COLORADO, *Weld County, ss:*

I, Frank M. Babcock, do hereby certify that on the 21st day of October, A. D. 1870, N. C. Meeker, president and attorney in fact for the Union Colony of Colorado, came before me, a notary public in the county aforesaid, and personally acknowledged that he had executed the within conveyance, and that I know the said N. C. Meeker to be the same person who executed the said conveyance.

Given under my hand and notarial seal the day and year last above written.

[Notarial seal.] FRANK M. BABCOCK,
Notary Public for Weld County.

It will be observed that this deed provides for a right of way through the town of Greeley of 100 feet in width, and no more, except in blocks 42 and 59, through which blocks the right of way was 200 feet in width. In accordance with the provisions contained in the deed the colony company laid out and constructed the street provided for in said deed and replatted its town, so as to correspond with the necessary changes made, and the railroad company immediately constructed its depot and, except in the business centers, fenced its right of way through the town, placing the fence on each side of the railroad 50 feet from the center thereof. The town of Greeley has grown to be a city of about 10,000 people. The Union Colony Co., as soon as the deed had been recorded and the streets rearranged in accordance therewith, began the sale of lots on each side of said railroad, and parties to whom said sales were made took possession of the property and began the erection of improvements thereon. Some of said improvements are of very great value and consist in warehouses, mills, and factories, all of a permanent character. The owners of this property have, ever since 1870, continued to exercise undisputed pos-

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session and ownership of said property without any objection on the part of the railway company or any other person. They have paid all the taxes thereon, both general and special, assessed against said lots. Many of these lots have been frequently sold and conveyed and deeds of general warranty given. Many of them have been sold from 8 to 10 times and some of them as many as 25 times. Many of them have been mortgaged.

In the aggregate there have been more than 1,000 deeds of conveyance placed on record from various persons to the property abutting on this right of way within the limits of the city of Greeley. In the year 1909 the railroad company claimed to be the owner of a right of way 400 feet in width throughout the entire length of the city, claiming that the same was granted to the company by the act of Congress before referred to. In many cases mills and factories have been built on the disputed land and mortgaged. As soon as the question of title was placed in doubt by the action of the railway company it was impossible to renew mortgages or to make sales of property. On this disputed tract there is one mill that the evidence shows is worth more than $100,000. On some of the property foreclosures of mortgages have been commenced because the owners are absolutely unable to renew loans or negotiate new ones. In December, 1909, the railroad company filed its bill of complaint against various defendants to quiet title in that company to a strip of land 400 feet wide, extending through the city of Greeley a distance of 2.2 miles, and this case is now pending in the United States courts. An appeal to the circuit court of appeals of the eighth district was tried on June 21, 1911, the opinion being found in 189 Fed., page 1.

Each of the judges upon deciding this case rendered a separate opinion. One judge held that in so far as any portion of the railroad company's 400-foot strip had been appropriated either by the city of Greeley for streets or alleys or by other railroad companies for the location of their lines the Union Pacific Co. was precluded from recovering the land so appropriated, but that it was entitled to recover from all private owners who owned property within the disputed strip. Another one of the judges held that the Union Pacific Co. had no title to any land outside of the 100-foot right of way and was bound by the deed heretofore set out. The other judge held flatly that the Union Pacific Railway Co. was entitled to a right of way of 400 feet; that under the case of the Northern Pacific Railway Co. *v.* Townsend it was not bound by its deed or its agreement and no title could be acquired against it by adverse possession. The reasoning of the majority of this court therefore seems to be that, at least as far as all private individuals in Greeley are concerned, their titles to this disputed strip derived from the Union Colony Co. are invalid and that they are trespassers upon the right of way of the railroad company. This case has been taken on appeal to the Supreme Court of the United States and is now pending therein.

Conditions similar to those at Greeley prevail at other places along the line between Denver and Cheyenne. In the town of Brighton, located on said railroad, there have been several suits commenced to recover lots within the 400-foot strip, where the lots have been in the possession of private parties for more than 40 years. In this town there are several stores and warehouses and one hotel involved in the controversy. In this particular town the right of way was

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fixed in 1870, by agreement, at 75 feet on each side of the center of the track. Similar conditions exist in the country along this line of road to the conditions in the State of Nebraska.

It seems plain that these conditions demand relief at the hands of Congress, similar to that given the property owners in the Northern Pacific case. The equities are all against the railroad company. It ought not to be allowed, after a period of 40 years, to violate its solemn obligations or to deprive men of property and property rights which they have honestly and fairly acquired. The bill, if passed, will not take from the railroad company one foot of land that it has not by its own act either directly or indirectly deeded away. The proposed legislation only gives validity to acts that the railroad company has heretofore done. It would only prevent it from refusing to be bound by its own action. There can be no successful claim made that the railroad company needs a right of way 400 feet in width. It is a wider strip than is allowed under the statutes of any State in the Union. It is impossible to conceive that the time will ever come when the railroad company will need this much of a right of way. It has never used it in the past. It is not pretending to use it for railroad purposes now. Under its charter, it can not use it for anything except for railroad purposes. At the hearing, the attorney representing the railroad company claimed that they would be able to use this 400-foot strip through the country for the purpose of plowing fire guards thereon and that they ought to be permitted to retain it all so as to have sufficient right of way upon which to build additional tracks, if the business should ever develop sufficiently to warrant it.

No one can conceive that the time will ever come when this railroad will need 400 feet upon which to build additional tracks for the transaction of its business, and it is hardly reasonable to believe that the railroad company wants or that it ought to have this wide strip of territory simply for the purpose of plowing fireguards. At least, it could not expect to plow fireguards through the cities and towns where the claim is being made for a 400-foot right of way. Wherever it has maintained its right of way and used it, this bill will not interfere with such usage. No one can claim that the railroad company would in any way be injured by this legislation. It can not possibly use the land. This wide strip would be of no possible benefit to it. It could not dispose of it. It could not use it for manufacturing purposes, but under its charter would be compelled to use it entirely for railroad purposes. It can not, therefore, be injured by the legislation. The lack of the legislation, however, is injuring thousands of people and divesting them of many years of their labor. Neither is it any answer for the railroad company to say that in exceptional cases it does not intend to commence action against property owners. The very fact that the title is not valid interferes with business and destroys the value of the property. By no act of the railroad company can the title be made valid. It will take an act of Congress to do this. It is believed the bill in question will accomplish this purpose. Its effect will simply be to validate the acts of the railroad company and to give legal effect to the action heretofore taken by the railroad company.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 594.

ASSISTANT APPRAISER AT PORT OF BOSTON.

APRIL 24, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. PETERS, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany S. 275.]

The Committee on Ways and Means, to whom was referred the bill (S. 275) authorizing the appointment of an assistant appraiser at the port of Boston, report the same without amendment and recommend that the bill do pass.

This measure has the approval of the Treasury Department, was favorably reported by the Senate Finance Committee (S. Rept. No. 352, 62d Cong., 2d sess.), and passed by the Senate on February 14, 1912.

[Senate Report No. 352, Sixty-second Congress, second session.]

The Committee on Finance, to whom was referred the bill (S. 275) authorizing the appointment of an assistant appraiser at the port of Boston, report the same with the following amendment:

In line 7 omit the word "relative."

This measure has the approval of the Treasury Department with the amendment suggested, and the Committee on Finance therefore recommend that the bill do pass as thus amended.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, July 17, 1911.

Hon. BOIES PENROSE,
United States Senate.

MY DEAR SENATOR: I have the honor to acknowledge receipt of your letter of the 6th ultimo, inclosing a copy of a bill (S. 275) authorizing the appointment of an assistant appraiser at the port of Boston, in which you ask my opinion in regard to its merits. In reply thereto I have to inform you that the above-mentioned bill has my approval. It is suggested, however, that the word "relative," in the seventh line of the bill, be omitted.

Respectfully,

FRANKLIN MACVEAGH,
Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 595.

MAKING HOLEB, ME., A SUBPORT OF ENTRY.

APRIL 24, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PETERS, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany S. 3160.]

The Committee on Ways and Means, to whom was referred the bill (S. 3160) to establish at Holeb, Me., a subport of entry in the customs collection district of Bangor, Me., and for other purposes, having had the same under consideration, report it back to the House without amendment, and recommend that the bill do pass.

This measure was passed by the Senate February 6, 1912, and has the approval of the Treasury Department. The communications of the department to the Ways and Means Committee and to the Senate Committee on Commerce follow:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, February 10, 1912.

Hon. O. W. UNDERWOOD,
Chairman Committee on Ways and Means, House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, transmitting a copy of S. 3160, to establish Holeb, Me., a subport of entry in the customs collection district of Bangor, Me., and authorizing the Secretary of the Treasury to discontinue Lowelltown as a subport of entry in the same district.

The said bill was submitted to the department by the Committee on Commerce of the United States Senate, and was the subject of the department's letter of the 6th ultimo, a copy of which is inclosed herewith, in which it is suggested that the bill be amended in certain respects. The bill has been amended as suggested and passed the Senate on the 5th instant.

The department has no objection to its enactment.

Respectfully,

A. PIATT ANDREW, *Acting Secretary.*

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TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, January 6, 1912.

The CHAIRMAN COMMITTEE ON COMMERCE,
United States Senate.

SIR: I have had under consideration Senate bill No. 3160, referred on August 4 last by the clerk to your committee for an expression of my views thereon, which bill provides for the establishment of Holeb, Me., as a subport of entry in the customs collection district of Bangor, Me., with the privileges of the first section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement, and also for the discontinuance of Lowelltown, Me., as a subport of entry in the same collection district.

It appears from an investigation made by officers of this department that the subport of Lowelltown is located on the line of the Canadian Pacific Railway Co. about 4 miles from the boundary line between New Brunswick and the State of Maine; that Holeb is located on the same line of railway and about 10 or 12 miles from the boundary line; that the country surrounding these places is somewhat of a wilderness, and that the sole customs business transacted at the subport of Lowelltown is that performed in connection with importations by the Canadian Pacific Railway; that the facilities for handling the railway business at Lowelltown are limited and it is the desire of the Canadian Pacific Railway to abolish the railroad station at Lowelltown and to transfer the railway business now done at that station to Holeb, and they propose to construct at the latter place the necessary sidetracks and buildings for the transaction of railway business and customs matters connected therewith.

This department has no objection to this being done and to the customs business being transferred from Lowelltown to Holeb. The necessary facilities for the transaction of customs business at Holeb have not yet been provided, and the department is informed that it will probably be several months before the necessary grading, constructions, and other work can be done by the railway company to provide the necessary equipment and facilities at Holeb.

It would not, therefore, be advisable to discontinue the subport of Lowelltown at this time, and it is therefore suggested that the second section of the said bill be amended to read as follows:

"SEC. 2. That the Secretary of the Treasury is hereby authorized to discontinue Lowelltown as a subport of entry whenever he may be satisfied that the maintenance of such subport is no longer necessary to the transaction of the public business."

Respectfully,

FRANKLIN MACVEAGH,
Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 596.

COMMISSION ON MINING INDUSTRY.

APRIL 25, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FOSTER, from the Committee on Mines and Mining, submitted the following

REPORT.

[To accompany H. R. 22342.]

The Committee on Mines and Mining, to whom was referred House bill 22342, to create a commission on mining industry, submit the following report and recommend that the bill do pass.

The recent coal strike in England, has been described as the most serious crisis of that country within the memory of living men, and as a crisis which threatened the very life of the nation. Now, after experiencing this great disaster, it is proposed that there be inaugurated an examination into all the conditions obtaining in the coal-mining industry of that country.

In the United States, with the most varied and extensive mineral resources of any country and with mining conditions complex in proportion to their extent, with a mining industry employing one and one-half million men, with crude mineral products which have an annual value of more than $2,000,000,000 and which constitute more than 60 per cent of the total freight tonnage of the country, and with economic conditions relative to the mining industry in a highly unstable condition, we, too, in the United States should inaugurate an examination that will develop and clearly set before the public a statement of important factors which to-day influence this industry either favorably or unfavorably, and we should thus prepare the way for remedial measures.

The difficulties between miners and operators have been such as to produce a serious disturbance in business of the country. The loss of time of those who work in the mines has been a great hardship. If the mine is idle, the coal is still in the mine to be taken out when operations are resumed, but to the miner all the time he loses is forever gone. Your committee does not believe in compulsory arbitration and is opposed to such manner of settling these difficulties, but we do believe that by a careful study of the conditions existing in

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the coal-mining industry in the end there might be some means of bringing about a more settled condition of labor. Suggestions might be made that if put in operation would be mutually beneficial to employer and employee.

The following figures illustrate the rapid increase in the annual value of crude products of the mines of the United States: 1880, $364,928,298; 1890, $606,476,380; 1900, $1,007,031,392; 1910, $2,003,744,869.

The American coal-mining industry has in the aggregate of its production of coal almost doubled every 10 years since 1870, as shown by the following table:

	Tons
1870	33,035,580
1880	71,481,570
1890	157,770,963
1900	269,684,027
1910	501,596,378

The growth of this industry has been too rapid to permit of the thorough systematic organization which has characterized the industry in some other mining countries. The following table illustrates the increase in the production of coal in the United States as compared to that in Great Britain and Germany, the two other great coal-producing countries:

	Great Britain.	Germany.	United States.
1880	164,605,738	65,177,634	71,481,570
1890	203,408,003	98,398,500	157,770,963
1900	252,203,056	164,805,202	269,684,027
1910	296,007,699	245,043,120	501,596,378

Another striking fact in connection with the development of the coal industry in these three countries is the difference in the number of miners employed, especially as between Great Britain and the United States, and the fact that in Great Britain these miners work for 300 days as compared to 220 days in the United States in 1910. These facts are set forth clearly in the following table, from which it is easy to develop the further fact that owing to the larger use of machinery and other labor-saving methods in the United States, the average coal miner in this country mines nearly three times as much coal per day as does the miner in Great Britain.

	Great Britain.	Germany.	United States.
Coal produced (1910) ... short tons	296,007,699	245,043,120	501,596,376
Number of miners	1,032,702	633,449	725,010
Average number of days worked	300	300	220

Nothing could more clearly demonstrate the need for a rigid investigation by a commission, such as is now proposed, than do the following salient features of the coal-mining industry:

We have in this country a capacity in the way of mines, equipment, and miners, sufficient for a production of 750,000,000 tons of coal yearly, as compared with a demand for and an actual production of 500,000,000 tons.

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Our coal miners, therefore, must remain in enforced idleness for nearly 100 working days each year.

In the coal-mining operations of the United States during a single year (1910) the waste of coal is estimated to have been not less than 250,000,000 tons, and the fatal accidents aggregated about 2,800 men in the coal mines and not less than 4,000 in all the mines and quarries—the ratio of deaths to each 1,000 men employed being twice to three times that in other larger mining countries.

Among the inevitable results of so unsatisfactory a situation is the excessive loss of life and waste of resources which have brought discredit to the American mining industry.

It is further claimed by coal operators that under the existing economic conditions nearly all of the so-called soft-coal mining operations are at the present time being conducted without material profits, and are frequently conducted at a loss to the owners of the mines. It is claimed by the miners that in view of the extensive enforced idleness, they must earn during shorter periods a wage such as will enable them to meet the increased cost of living; and it is admitted by both miners and operators that the existing controlling conditions of the industry are such as to encourage rather than prevent a loss of life and a waste of resources which all agree are a national discredit.

It is believed that the work of the proposed commission will develop a large amount of information that will help to solve in a satisfactory manner a number of these important problems. If the commission, as a result of its inquiries, can present to the people of this country facts which will enable them to more clearly understand the condition and the needs of the mining industry, and can make any important contribution toward the solution of these problems in behalf of safety and efficiency and general welfare, and thus lessen future serious disturbances in the coal-mining industry, it will have demonstrated many times over the wisdom of its establishment.

The proposal and plan for the establishment of this commission have met with general commendation and approval among both the miners and the mine operators of the country.

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62D CONGRESS. 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 597.

POSTAL EXPRESS.

APRIL 25, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GORDON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 23713.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 23713) to provide for the acquisition of the express companies' property so far as engaged in the express or parcel-post business, and the utilization thereof by the Postal Department, having considered the same, report thereon with a recommendation that it pass.

The "parcel-post" function discharged by the express companies in the United States is a function almost uniformly discharged elsewhere by the postal departments. The bill now favorably reported provides for the similar postal discharge of the parcel function by our Government. All the vexed questions of parcel-post legislation now before Congress arise because the express-company method has failed to properly discharge this function or to render a service—

(*a*) Sufficiently extensive; they fail wholly to reach the country store or farm now reached by the postal system.

(*b*) Sufficiently economical; their rates are so high as to be prohibitive of most of the potential traffic.

(*c*) Sufficiently efficient; investigation has shown that their "overcharges" and "double collection of charges" constitute a serious public grievance, although meanwhile they have accumulated surplus profits of many times the capital devoted to the service.

(*d*) In failing to reach the farm and thus permitting the vital necessaries to move at first cost directly to the consumers in the towns and cities, their inadequate service is a substantial cause of the high prices, about double what the farmer receives, for the table necessaries.

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Hence, the widespread and persistent complaints of the rural and commercial interests, and the deep-seated feeling of the general public against these companies. These companies have simply entered upon the field in default of its proper occupancy by the postal agency, as in other countries, where such companies do not exist.

PROVISIONS OF THE BILL.

Section 1 appropriates to the United States by condemnation the equipment and the express-railway contracts which are used in the conduct of the actual express business, and contains a proviso that no property is condemned not necessary to the conduct of the express function by the Government. It also requires the carriers to perform such services for the Government as have been customary with the express companies.

Section 2 directs the President to take possession of the properties condemned on July 1, 1913, and the Postmaster General to conduct the service, as a facility of, and in conjunction with, the Postal Service.

Section 3 gives the Postmaster General, subject to the approval of the President, power to make such rules and regulations as may be necessary to carry out the purpose of the act.

Section 4 provides for the weighing of express matter during August and December, 1912, and April, 1913, as representative months for each carrier, and while the appropriated express-railway contracts remain in force, unless otherwise agreed, to pay such carriers the amount according to weight received by them under such contracts. By this means a large part of the burdensome transportation accounting of the express companies necessary to ascertain the railways' share of the specific express rates paid by the shippers would be eliminated.

Section 5 provides for the renewal of the express-railway contracts, at their termination, on terms to be agreed upon by the carrier and Postmaster General; and in case of failure to agree, gives the Interstate Commerce Commission power to declare the terms of such contracts.

Section 6 provides for the appraisement of the express property taken by the Interstate Commerce Commission, and section 7 provides for the payment of the final awards by the Secretary of the Treasury.

Section 8 defines the duties of the carriers under the act, the penalty for failure to perform them, and section 9 gives the Postmaster General power to acquire such equipment, etc., as may be necessary in the service.

POWER OF CONGRESS.

The power of Congress to deal with the subject, according to the method of the bill, is amply supported by the authorities.

"Contracts are property, and as such may be condemned and taken under the law of eminent domain." (10 Am. and Eng. Ency., p. 1089; Dodge *v.* Woolsey, 18 Howard (U. S.), 379; Nichols on Eminent Domain, sec. 315.)

The United States possesses the power of eminent domain, which it may exercise to promote any of its constitutional powers. (10 Am. and Eng. Ency., p. 1051; Kohl *v.* U. S., 91 U. S., 367; 15 Cyc., p. 564–565.)

The United States may condemn interstate railways. (Nichols on Eminent Domain, sec. 23; Wilson *v.* Shaw, 204 U. S., 24; Monongahela case, 148 U. S., 431–432.)

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This power of condemnation may be exercised directly by the legislative branch. The only limitation is that just compensation shall be provided for. (10 Am. and Eng. Ency., p. 1068; Secombe *v.* Milwaukee, 23 Wall., 108.)

In those cases where the condemnor is the sovereign the compensation need not be tendered or ascertained in advance of the taking. It is only necessary that adequate provision be made for compensation. (10 Am. and Eng. Ency., p. 1142, note 2; Nichols on Eminent Domain, sec. 263; Sweet *v.* Rechel, 159 U. S., 380; Williams *v.* Parker, 188 U. S., 491.)

The owner of property condemned by the United States is not entitled to a jury, but commissioners may determine the amount of compensation, etc. (Nichols on Eminent Domain, secs. 302, 306; U. S. *v.* Jones, 109 U. S., 513, 569; 169 U. S., 567; 11 Peters, 420, 571; 148 U. S., 312, 327.)

NECESSITIES FOR ACTION.

This subject, the entire problem, arises out of the very serious condition in which the country is placed with regard to the high cost of living, a condition becoming daily more aggravated. It has been declared that the farmers who raise our vital necessaries get about $6,000,000,000 for what finally sells to the consumer at about $13,000,000,000.

Last year's agricultural products were worth $9,000,000,000 to the farmers. The Government used farm values in getting figures for this total. Assuming that the farmers kept one-third of the products for their own use, the consumers paid more than $13,000,000,000 for what the producers received $6,000,000,000. The cost of getting the year's products from producers to consumers amounted to the enormous sum of $7,000,000,000. The real problem to deal with is not high cost of living. It is high cost of selling. (B. F. Yoakum, chairman St. Louis & San Francisco Railroad.)

The report of the Secretary of Agriculture for 1910 gives the following as the percentages of the prices paid by the consumer which the farmer received for the foodstuffs named:

	Per cent.		Per cent.
Poultry	55.1	Turkeys	63.4
Eggs, by the dozen	69.0	Cabbage, by the head	48.1
Celery, by the bunch	60.0	Apples, by bushel	55.6
Strawberries, by quart	48.9	Apples, by barrel	66.0
Oranges, by dozen	20.3	Onions, by peck	27.8
Melons, by pound	50.0	Green peas, by quart	60.0
Potatoes, by bushel	59.3	Parsnips, by bunch	60.0
Watermelons, singly	33.5	Turnips, by bunch	60.0

It is generally admitted that the problem before the country is how to get these vital necessaries direct from the producer to the consumer at something like the price at which they are produced. A study of these questions develops the fact that a method of relief requires the coincidence of two conditions: (*a*) A transportation condition permitting the economical movement, direct from the rural producer to the consumer, of (*b*) articles in quantities to suit the consumer's needs, i. e., retail, not wholesale, quantities.

The direct transportation in mind is a linking up of the rural-delivery structure with the urban-delivery plants of the express companies, and of both with the railways. The difficulty now lies in the absence of a connected transportation conduit, which will receive the small shipment at the farm, and convey it, like a letter, direct to the consumer. It must be obvious that if these agencies are so linked as to move the retail shipment a solution of the parcel-post problem will be obtained; and on terms, too, that will remove the

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objections of the local merchant. No one fears a just express rate and improved express service, that will, moreover, reach the merchant and farmer in the country.

PROHIBITIVE EXPRESS RATES.

Besides failing to articulate with rural points, now the commanding necessity of town and country, the charges of the express service render its utilization commercially impossible for a large part of the potential traffic. We should expect express charges to be higher per ton here than abroad—as much higher as our freight per ton charges. But no necessary economic cause is known which justifies a substantially higher proportion or ratio of the express to the freight charges here as compared with other countries. The average express charge per ton here is shown to be $31.20, while the average freight charge is $1.90 per ton, giving a ratio of the express charge to the freight charge of 16 (16.42) to 1. This express charge includes the cost of such collect and delivery service as is rendered, covering, it is thought, about 90 per cent of the traffic. In the table now inserted the element of the expense of the express companies for collecting and delivering, amounting to 11.50 per cent, is excluded, because many of the countries do not include this factor of cost. The table embraces 10 countries. All countries have been included where the express data is clearly distinguishable from general freight statistics.

Ratios of average express charges to average freight charges in 11 countries.

Countries.	Average express charge per ton.	Average freight charge per ton.	Ratios of average express to freight charges.
Argentina	$6.51	$1.96	3.2 to 1
Austria	3.77	.74	5.0 to 1
Belgium	[1] 4.92	.53	[1] 9.3 to 1
Denmark	5.49	.87	6.3 to 1
France	6.88	.95	7.2 to 1
Germany	3.80	.76	5.0 to 1
Hungary	3.68	.98	3.9 to 1
Netherlands	2.43	.67	3.6 to 1
Norway	1.90	.49	3.8 to 1
Prussia	4.32	.86	5.0 to 1
Average for 10 countries	.....	.....	5.23 to 1
United States	27.61	1.90	14.53 to 1

[1] Belgium delivers parcels.

Ratio express tonnage, 10 countries, to freight tonnage	1.060
Ratio express tonnage in United States to freight tonnage	.517
Ratio express receipts, 10 countries, to freight receipts	5.290
Ratio express receipts in United States to freight receipts	7.776
Normal revenue ratio for United States as per express receipts above	2.460
Excess of American express receipts (216 per cent)	5.316

PAUCITY OF THE TRAFFIC.

It is believed that a great increase of the traffic would result from the reduction of the rates and the extension of the service beyond

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the cities to the country. That the traffic is now laboring under a radical restriction of volume because of the inhibitory charges and the exclusion of the rural population becomes apparent when compared with the express traffic in other countries. A table is here inserted, giving comparative data in this respect.

Ratios of express traffic to freight traffic in several countries.

Countries.	Ratios of express to freight.	Per capita.	
		Express.	Freight.
		Pounds.	*Tons.*
Argentina	1 to 64	165	5.34
Austria	1 to 97	117	5.68
Belgium	1 to 82	199	8.16
France	1 to 58	141	3.74
Germany	1 to 118	140	7.99
Hungary	1 to 84	68	2.77
Average (except United States)	1 to 82	138	5.61
United States	1 to 165	99	8.15

REDUCTION OF RATES.

An inspection of the reports of the companies to the Interstate Commerce Commission for 1910 shows gross revenues of $146,116,318, out of which the railroads received $69,917,561, while $61,690,473 was paid for express-operating expenses; $1,126,726 taxes; leaving $13,392,080 in profits, on an investment in the business of $15,453,947, of which the following are the items:

Expenditures for equipment	$9,435,620
Materials and supplies	332,494
Advance payments on contracts	5,685,833
Total	15,453,947

There is an additional item of "expenditures for real property" of $15,890,048, much of which consists of city office buildings, devoted only partially to the service.

The thirteen millions of profits could be applied under postal auspices to reducing the rates. So, also, it is believed, could more than one-half of the express-operating expense. Investigation shows that of some 22 acts of transportation attention devoted to the small shipment by the railway and express company, no less than 15 such acts are replaced by the postage stamp, with like packages under postal methods. Besides this egregious waste in transportation accounting it is manifest that the multiplication of plants, officers, and agents by the different companies in the towns and cities would permit of elimination through already existing postal facilities, not to speak of 13 systems of overhead charges by as many express companies. When the express plants have been merged in the postal system these savings would, it is estimated, permit of reductions on the rates for packages below 10 pounds of from one-half to two-thirds, and reductions of one-third generally.

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COST OF ACQUISITION.

The reports of the express companies to the Interstate Commerce Commission for the year 1910 give the following statement of their assets:

General balance sheet statement as of June 30, 1910 and 1909.

ASSETS.

Items.	Grand total.	
	1910	1909
Expenditures for real property	$15,890,048.77	$14,999,211.94
Expenditures for equipment	9,435,620.17	7,314,363.50
Stocks owned	50,598,202.90	40,879,647.22
Funded debt owned	51,513,022.08	45,955,672.54
Other permanent investments	14,220,092.90	26,017,709.11
Cash and current assets	45,421,184.34	33,682,608.88
Materials and supplies	332,494.76	138,210.78
Sinking, insurance, and other funds	140,384.34	128,491.83
Advance payments on contracts	5,685,783.34	5,836,666.67
Franchises, good will, etc	10,916,445.46	10,916,708.07
Other assets	547,955.22	266,965.33
Profit and loss	8,752.63	91,129.56
Total assets	204,710,036.91	186,227,380.54

Of these items only the following are to be considered as involved at all in the property to be acquired under the bill (1910):

(1) Expenditures for real property	$15,890,048.77
(2) Expenditures for equipment	9,435,620.17
(3) Materials and supplies	332,494.76
(4) Advance payments on contracts	5,685,833.34
(5) Franchises, good will, etc	10,916,445.46

The first item, real property, it is not thought will be necessary to the postal operation of the service; and as mere office buildings, the Postmaster General is directed to refuse to take them by the bill.

The last, the fifth item, franchises and good will, is subject to the following reflections: The express companies do not have any franchises. A franchise is a grant of some special and exclusive privilege by the State or Government; e. g., the right to lay gas or water mains beneath or above the streets, street railways, or ferries or bridges. No such franchises or grants of any kind are possessed by any of the companies. With respect to the so-called "good will," of what does it consist? It can not, under our fundamental law, validly consist of the transportation rate and facilities extended to the express company by the carrier, because all shippers are legally entitled to the same treatment from the carrier under the Federal and the common law. But even if "good will" existed as a legal fact, the claimant does not appear to be entitled to be paid for it under the laws of eminent domain. (Laflin *v.* Chicago, etc., R. Co., 33 Fed. R. 415, 15 Cyc., p. 646.)

It is believed that it is the item "advance payments on contracts" alone which presents the character of artificial value with anything in the nature of a claim. This $5,000,000 was exacted by the railways and paid by the express companies in violation of the public policy of the law with respect to carriers for centuries. Ought it be repaid

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to the express companies by the Government, consisting as it did of the price of an offense against the policy of its laws? This is at last a judicial question upon which the courts alone can pass; but it should be added that it involves a value practically inconsiderable when compared with the great value and indispensable importance of the contracts to the public service.

The cost of the acquisition will probably embrace the following items:

Expenditures for equipment	$9,435,620
Materials and supplies	332,494
Expenditures for real property (one-third)	5,296,647
Total	15,064,761

Even if the "advance payments on contracts" be added, the total cost would be a little less than $21,000,000.

ADVANTAGES OF THE EXPRESS-RAILROAD CONTRACTS.

The advantages to the Postal Department of these express-railroad contracts is shown in a single statement. In 1908 the postal matter, excluding equipment, weighed 602,040 tons, which were carried on the average 620 miles, or 373,277,675 ton-miles; for which the railroads were paid $49,404,763, or at the rate of 13.2 cents per ton-mile. In 1909 the express companies, under these contracts, paid the railroads $64,032,126 for hauling 4,556,296 tons an average of 200 miles, or 911,359,200 ton-miles, being at the rate of 7 cents a ton-mile, also excluding equipment. It is hard to see how the post office could compete with the express companies without these contracts while paying nearly twice as much to the railways on packages of like weight.

Another equally great value that would go with the contracts would be the innumerable advantages of a going concern, a practical modus operandi, having nearly all the necessary adjustments to business habits and human relations already in working order.

Outside of the costly waste to the public involved in maintaining two services there are very direct reasons why the express contract should be secured. The postal system requires them in order to obtain:

(*a*) The declension in express-railway pay, necessary for a desirable zone system.

(*b*) The numerous "depot" and storage privileges accorded the express companies by the railways.

(*c*) Conservation of structural factors in the express institution of intrinsically serviceable character.

(*d*) To avoid controversies and, perhaps, serious mistakes with the railways incident to entirely new relations.

PURCHASING THE EXPRESS COMPANIES.

Hardly any person will question the wisdom of securing such advantages; and certainly no one who faces the package-transport question seriously will deny the advantages themselves. The depot privileges of the express company are simply indispensable to an efficient and economical administration of the function. If the

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postal system has to provide itself with these facilities by rent or purchase, it would find the cost to be much greater than the purchase of the express contracts. But it is the history of the express company which gives the real trouble here. The people do not object to paying for what they require. It is the conviction that express capital does not represent any actual investment, but, such as it is, is made up of accumulated excess profits in the past. The moral antagonism to paying them for that which they have unrighteously taken from the people in excessive profits is the root of the opposition. It is the same feeling which many entertained toward paying for the slaves' emancipation, but we know now that the cheapest way for the emancipator, and the best way for both slave and master would have been to recognize the commercial facts by fair payment.

THE PARCEL-POST REGULATION.

Testimony before the committee was to the effect that regulation of the express rates could not be made effective because of the very small margin of the rate, less than 7 per cent in 1911, which is profit; that the service could not be sufficiently economically done by the railways, even if required, because of their transportation practices, especially their accounting, and the fact that compelling each railroad to perform the service would be multiplying the 13 express companies into many more than 900, the number of independent railroads, with the concomitant waste of accounting relations relatively aggravated.

The suggestion is made that the Government establish an independent parcel post. With one already existing, in working order, it seems useless to establish another and oblige the public to pay the cost of maintaining both. Moreover, it is submitted that it would be very unwise, unless paramount necessity so dictated, to force a new system upon the business interests of the country, and, whether with good or ill reason, a system it has learned to fear. To suddenly force a revolutionary system of rates, without study or preparation, is a circumstance well calculated to frighten business, even if as a matter of fact, as now proposed, such rates are so high as to effectually prevent the intended relief. Conservative counsel would seem to suggest that no such unnecessary and drastic proceeding be taken.

RATE MAKING.

The rate-making function can not be in Congress or any of its committees. General principles of social action the Congress is constituted to deal with, but the making of specific rates is alien to its function. Moreover, a law-made rate would be practically unalterable. About once in a generation can Congress act on a given subject, while these rates might require frequent readjustments in such a period, in the interest of traffic mobility, if not the railway pay. There would have to be an administrative tribunal to fix such rates in an initiatory way, with an appeal by the public and the railway to the Interstate Commerce Commission, and this tribunal the bill supplies. In this way the necessary elasticity—that is, adaptability—of the rate to transportation conditions might be secured.

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CONCLUSIONS.

(1) The express companies constitute in fact the "parcel post" of the United States, but—

(2) Because of their prohibitive rates and nonextension to rural points their service is inadequate.

(3) The service is a natural part of the postal function and should be merged in the postal organization.

(4) The contracts and equipment of such companies are essential to an economical and efficient service by the postal department.

(5) That the extension of such service to the country will operate to substantially reduce the prevailing high prices of the vital necessaries.

(6) The rates should be administratively, not legislatively, made in order to move the potential traffic and protect the Treasury.

(7) This measure offers a full solution of the small shipment problem and allays, in place of exciting, the apprehensions of the retail merchants of the country.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 599.

APPROPRIATION FOR REPAIR OF LEVEES, MISSISSIPPI RIVER.

APRIL 25, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HUMPHREYS of Mississippi, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany H. J. Res. 309.]

The Committee on Rivers and Harbors, to whom was referred House joint resolution 309, appropriating money for the repair of the levees along the Mississippi River, reports it with the recommendation that the resolution be amended by striking out, in line 19, page 2, the words "unexpended balance of," and that the resolution as amended be agreed to.

The flood now passing down the Mississippi River has broken the levees, which have been constructed jointly by the United States Government and the localities along the river, in many places, and large areas of farm lands have been flooded. It is expected that these waters will recede and that the farmers will be able to plant their crops within the next three or four weeks, but when the snows begin to melt along the upper tributaries of the Mississippi there occurs what is generally known as the June rise. This rise reaches the lower Mississippi about the 1st of July, and unless the levees which have been broken by the existing flood can be rebuilt before then another flood will ensue, and coming at that time it will be impossible for the farmers who are then overflowed to make any crop at all this year.

The local levee boards along the lower Mississippi raise funds for the construction of levees by taxes which are collected in December, but these funds have practically all been expended during the past 30 days in emergency work done to prevent the destruction of the levees by the existing flood. The gauge at Cairo has heretofore been regarded as an index to the height which might be expected in the lower river. The highest point ever reached on that gauge before the flood of 1912 was 52.2 feet; this year the river reached 54 feet at that point. The highest point reached on the gauge at Memphis heretofore

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was 40.3 feet; this year the river reached 45.3 at that point. This statement will explain the reason why the local levee boards were required to expend in emergency work during the existing flood the funds which they had raised for further levee building during the current year.

The rivers and harbors bill which passed the House a few weeks ago and is now in the Senate will probably not become a law for a month or six weeks, and it will not be possible for the Secretary of War to close these crevasses before the June rise if no funds are available for that purpose until the rivers and harbors act has been approved. The Chief of Engineers estimates that it will require $1,100,000 to close the breaks in the levees which have already occurred, but the flood is still in the river and there is serious danger of still further breaks along the lower reaches. For this reason he recommends that $1,500,000 be made available at once to provide for the rebuilding of the levees already destroyed and to cover other breaks that may hereafter occur. The resolution provides that a million and a half dollars be appropriated to become immediately available, and that the Secretary of War shall keep an accurate account of the cost of repairing these crevasses, and that the total sum so expended shall be deducted from the appropriations for levee construction hereafter available.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 602.

INTERFERENCE WITH COMMERCE AMONG THE STATES, ETC.

APRIL 25, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. BEALL of Texas, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 56.]

The Committee on Agriculture having had under consideration H. R. 56, a bill to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations, submits the following report:

Section 1 of this bill defines the word "message" and the word "person," and provides that words importing the plural number, whenever used, may be applied to or mean only a single person or thing, and words importing the singular number may be applied to or mean several persons or things.

Section 2 makes it unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale of cotton without intending that such cotton shall be actually delivered and received, and provides penalties for violation.

Section 3 makes it the duty of any person sending any message relating to a contract for the future delivery of cotton to furnish to the person transmitting such message an affidavit to the effect that the message does not relate to the character of contracts described in section 2, and provides penalties for any false statement that may be made in such affidavit. This section also provides that proof of failure to make any affidavit required in the act shall be prima facie evidence that the message or messages related to a contract prohibited by section 2 of the act, and that proof of failure to deliver or receive the cotton called for in any contract for future delivery shall be prima facie evidence that there was no intention to deliver or receive said cotton when said contract was made.

Section 4 authorizes and requires any agent of any telegraph, telephone, wireless telegraph, or cable company to whom messages

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described in the act may be tendered to administer any oath required to be made under the provisions of the act, such oath to have like effect and force as if administered by officers having a seal.

Section 5 makes it unlawful for any person owning or operating any telegraph or telephone line, wireless telegraph, cable, or other means of communication, or any officer, agent, or employee of such person, knowingly to use such property, or knowingly to allow such property to be used, for the transmission of any message relating to such contracts as are described in section 2 of the act and imposes a penalty for violation.

Section 6 declares every book, newspaper, pamphlet, letter, writing, or other publication containing matter tending to induce or promote the making of such contracts and carries the usual penalties for violation.

Section 7 authorizes the Postmaster General to instruct the postmasters in the post offices at which any matter described in section 6 as nonmailable matter arrives as to the disposition to be made of such matter and is modeled after the fraud-order section of the existing law.

Section 8 provides that in any proceeding under this act all persons may be required to testify and to produce books and papers, but no person shall be prosecuted and subjected to any penalty or punishment whatever on account of any transaction, matter, or thing concerning which he may testify or produce evidence of any character whatever. This action conforms to the immunity clause of the Elkins Act.

The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity. It does not seek to prohibit or to interfere with a single legitimate transaction in cotton. It is recognized as one of the world's greatest articles of commerce. Millions of our own people are engaged in its production, and other millions, here and elsewhere, are employed in its manufacture and in the distribution of cotton and cotton products. The demand for cotton is world-wide, and commerce in it is a necessity. Any attempt to restrict or hamper the course of legitimate commerce in cotton would be injurious to the producers and distributors, as well as the consumers of cotton products.

It is not believed by this committee that any injurious effects upon legitimate dealing in cotton will follow the enactment of this measure into law. In so far as the present system of trading in cotton is dependent upon future trading, if it is at all, when actual delivery is not made, a readjustment may be necessary, but such readjustment can be made with advantage to the cotton trade. In effecting the purpose of eliminating gambling in cotton this bill closes the mails and the interstate agencies of communication against those seeking to use them for purely speculative purposes. It is not believed that any serious constitutional objection can be made against its provisions, and it is expected to prevent a form of speculation that is morally wrong and economically hurtful.

The committee therefore recommend that the bill be passed.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 602, Part 2.

INTERFERENCE WITH COMMERCE AMONG THE STATES, ETC.

MAY 2, 1912.—Ordered to be printed.

Mr. LAMB, from the Committee on Agriculture, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 56.]

We are opposed to the passage of H. R. 56, because—

1. The question of the constitutionality of the bill is doubtful.
2. It is a distinct restriction on trade in cotton, which must result in depreciation in its price in the hands of the producer.
3. It denies to all persons dealing in cotton the use of the usual means of transmitting intelligence without the unusual procedure of making special affidavits as to honest intentions.
4. The bill is arbitrary and tyrannical in its requirements, and no valid reason is given for the enactment of a law that makes the ordinary dealing in a staple product criminal unless the deal is proven in advance to be valid under a restrictive and prohibitory measure.
5. The penalties are too severe. Innocent men, unaware of this law, would most likely do the very things it prohibits, and naturally leave undone the things it enjoins.
6. It creates irresponsible agents to administer oaths.
7. It is a radical, unnecessary, profitless, and injurious proposition, which if applied in this case might with equal propriety be employed in restraint of trade of all farm products, to the serious detriment of the producer.
8. It is doubtful if Congress has the power or authority to place such unreasonable restrictions on trade under the commerce clause of the Constitution. It certainly can not do so on commerce wholly within a State.
9. The evidence before the committee showed that the New York Cotton Exchange, through its members, is the distributing agent for more than 80 per cent of the cotton produced in this country. Its by-laws and rules require a well-understood and clearly defined contract for its sales and purchases, enforceable in the courts by actual delivery of the cotton contracted for or damages for breach of such

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contract, thus placing these contracts, sales, and purchases on the same legal footing as other contracts.

10. The New York Cotton Exchange, operated strictly in accordance with laws of New York (its home State) and the by-laws and regulations of the association, does not appear to us to violate any moral law or to foster gambling in futures or gambling of any kind, and gambling in any form is as strenuously opposed by us as by any. We fail to find in the evidence before the Agricultural Committee or in the by-laws and regulations of the cotton exchanges or in their sale or purchase contracts any encouraging provisions or features to this end.

11. The New York Cotton Exchange is a corporation created and chartered by the State of New York. Its home office is in that State and its business is conducted there, and its business and transactions should be regulated and controlled by the laws of that State. It seems to us that interference by the Federal Government is unwarranted and improper, unless the transactions of the exchange are shown to violate some moral law or principle.

Whatever the intent and purpose of this bill may be it must be recognized that its effect will be to well-nigh, if not totally, abolish cotton exchanges in this country. If the evidence before the Committee on Agriculture showed that the cotton exchange was engaged in gambling in cotton, or that its by-laws, rules, and regulations or practices encouraged and fostered gambling in cotton or fostered and encouraged the violation of any moral law or principle, no one would be more earnest in his efforts to suppress it. The evidence, however, at the hearings not only failed to establish such conditions, but, on the contrary, clearly established that any gambling in cotton, any sale or purchase of cotton by any of its members not enforceable by actual delivery of cotton contracted for, subjected such member to dismissal from the association.

It is in evidence that the cotton exchange is a medium of distribution of 80 per cent of the cotton grown in this country; that its manner of doing business enables the cotton raiser to dispose of his cotton at any time; that the manufacturers and investors, through its agency, by hedging, obviate great financial losses and sudden fluctuations: that to abolish the cotton exchanges in this country would discriminate disastrously against our own citizens and incalculably favor foreign cotton exchanges, and would most seriously and disastrously affect the balance of trade against this country.

The contracts of the members of the New York Cotton Exchange subject to its rules and regulations are contracts wholly confined to the State of New York and bear in no sense the character of interstate commerce.

Should control of the cotton crop be vested in foreign exchanges, through favorable discrimination to them and unfavorable discrimination against our home institutions, the greatest of all sufferers would be our American labor employed in our cotton industry and our American producers.

We are not left to opinion or speculation as to the legality and morality of the contracts of the cotton exchange. The Supreme Court of the United States, in the case of Chicago Board of Trade *v.* Christie, upheld the legality of the contracts traded in by the New York Cotton Exchange, making compulsory, by by-laws and rules,

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the delivery of cotton, if sold, the receipt of cotton, if bought, and this decision has been followed in all the Federal courts.

The authority of Congress to prohibit the use of the telegraph and mails is denied, unless it be shown that the business conducted by its aid comes under the character of "interstate commerce," or is inherently immoral or illegal. The evidence at the hearings failed to establish such conditions. Mere violations or perverted use of agencies can not establish immorality, and upon these grounds alone can the Federal Government claim justification or authority to deny the use of the telegraph and mails.

The contracts of the exchange are not illegal or immoral, for the Supreme Court has upheld and enforced them. The form and manner of conducting the business having been upheld by the courts, the association for the conduct of the business being created by a State and its business wholly conducted within the State, Congress has no just authority to deny to this association or similar associations the use of the telegraph or mails.

We are therefore constrained, though opposing gambling or speculation in every form, especially in the necessities of life, to dissent from the report of the Committee on Agriculture on this bill, and to oppose its passage.

JOHN LAMB.
JOHN J. WHITACRE.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 603.

ISSUE OF ABSOLUTE AND UNQUALIFIED PATENTS TO PUBLIC LANDS.

APRIL 25, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands submitted the following

REPORT.

[To accompany H. R. 23238.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 23238) to authorize the issuance of absolute and unqualified patents to public lands in certain cases, having had the same under consideration, respectfully recommend that the bill do pass.

Prior to and since the passage of the acts of Congress approved March 3, 1909, and June 22, 1910, large tracts of land throughout the Western States have been withdrawn from entry as coal land. The withdrawals were many of them made in rather a hasty manner and without any opportunity of investigating the character of a large portion of the land withdrawn, and necessarily a very large part of the land withdrawn as coal land was found afterwards, upon investigation, to contain no coal whatever. In many cases nearly whole counties were withdrawn, and afterwards upon investigation found to be noncoal land, and have been so classified. There are large tracts of land now withdrawn for examination for coal, and when they are examined will be found to contain no coal, and will be restored to entry under the public-land laws. But in the meantime, and while the land is withdrawn, and before it is classified as noncoal, the acts above referred to have been in operation, and thousands of homestead entries have been made of the surface right of the land, and surface patents have been issued to the entrymen, reserving to the Government the coal contained therein.

Everyone recognizes that where there is no coal to reserve a restricted patent and the consequent conditional or limited title is wholly unnecessary and leads to possible violation of contracts, litigation, and uncertainty, and consequent hardships, expense, and losses. The people owning these limited titles are quite insistent upon there being some provision whereby the Government can grant

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them an unconditional and unqualified title. Reservations in a title are always ground for disputes and are not only a cloud upon the title, but very largely a perpetual nuisance to the owner. So wherever those conditions can be avoided it is deemed best to do so. In fact, many people do not feel that they have a good title where they can only obtain a quitclaim deed to the surface or where in every mortgage or lease or conveyance or other instrument affecting the property they must employ a skilled lawyer to put in the necessary reservations to preserve them from liability. It therefore depreciates the value of the property and promotes litigation and is invariably a cause of dissatisfaction. And while the homesteaders have been compelled to take limited surface titles to those lands that were at one time withdrawn as possible coal land, at the same time, where the lands have since been officially and carefully inspected and examined and learned to contain no coal whatever, it is believed that there is no good reason why the Government should not grant an absolute and unqualified title to the land.

This bill has been prepared and introduced for that purpose. It has met with the hearty and unqualified approval of the Interior Department, as will be shown by their report given below, and your committee believes that the bill should be passed without amendment:

DEPARTMENT OF THE INTERIOR,
Washington, April 23, 1912.

Hon. JOSEPH T. ROBINSON,
Chairman Committee on the Public Lands,
House of Representatives.

SIR: I am in receipt of your request for a report on H. R. 23238, which proposes to authorize the issuance of patents conveying "absolute and unqualified titles to lands" which have been classified as noncoal in character after the issuance of patents containing a reservation of the coal in the lands patented.

In reply you are informed that this department knows of no reason why this bill should not be enacted.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 604.

VETERINARY SERVICE, UNITED STATES ARMY.

APRIL 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HAY, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 16843.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, having considered the same, report thereon with a recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert the following in the nature of a substitute:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed two such officers for each regiment of Cavalry and Field Artillery, fifteen as inspectors of horses and mules and as veterinarians in the Quartermaster's Department, and five as inspectors of meats for the Subsistence Department, not to exceed sixty-two in all.

SEC. 2. That hereafter a candidate for appointment as assistant veterinarian must be a citizen of the United States between the ages of twenty-one and twenty-seven years, a graduate of a recognized veterinary college or university, and that he shall not be appointed until he shall have passed a satisfactory examination as to character, physical condition, general education, and professional qualifications.

SEC. 3. That an assistant veterinarian appointed under section two of this act shall have the rank, pay, and allowances of second lieutenant, mounted; that after five years of service an assistant veterinarian shall be promoted to the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section one of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians with the rank, pay, and allowances of second, lieutenant, mounted; that the veterinarians who have over five years of service be reappointed and commissioned as veterinarians, with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional

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examination and a physical examination as to fitness for mounted field service: *Provided further*, That veterinarians now in the Army, and in the employ of the Quartermaster's Department and the Subsistence Department, who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with seventy-five per centum of the pay corresponding to length of service as prescribed herein.

SEC. 5. That the Secretary of War, upon recommendation of the Quartermaster General, may appoint, for such time as their services may be required, such number of reserve veterinarians as may be necessary to attend public animals pertaining to the Quartermaster's or other departments or corps, who shall have the pay and allowances of second lieutenant, mounted, during such period of service and no longer: *Provided*, That such reserve veterinarians be graduates of a recognized veterinary college or university and have previously passed such moral, professional, and physical examination as may be deemed necessary by the Secretary of War for the proper performance of their duties in mounted field service.

SEC. 6. Candidates passing the examinations as prescribed in section two of this act shall be appointed, in the order of merit in which they passed such examinations, to vacancies as they occur, such appointment to be a probationary one of six months, after which time, if the services of the probationer have been satisfactory, he shall be permanently appointed, with commission antedated to embrace such probationary service. Probationary veterinarians whose services are found unsatisfactory shall be discharged at any time during the probationary period, or at the end thereof, without further claim against the Government.

SEC. 7. That the Secretary of War is authorized to appoint a board of examiners to conduct the examinations prescribed herein, one member of which shall be a field officer, one a surgeon, and two veterinarians.

SEC. 8. That all laws or parts of laws in conflict with the provisions of this act be, and are hereby, repealed.

Your committee, after giving this bill very careful consideration, is of the opinion that it should pass in the interest of the efficiency of the service.

On March 23, 1912, there were employed in the Army 69 veterinarians. The substitute bill provides for 62. The present cost of this service is $141,174.90. The cost under the proposed substitute bill will be $172,551.16, a difference of $31,376.26 per annum. All this bill does is to give rank to the veterinarians, which they do not now have. This is in line with the practice of other countries, as will be seen from Exhibits A and B hereto attached.

EXHIBIT A.

VETERINARY SURGEONS.

The following is a brief statement showing—

(*a*) The organization of the veterinary services of the English, French, German, and Austrian Armies, with rank of officers at head of organization and rank and status of veterinarians.

(*b*) Number of veterinarians now employed by the United States military establishment in the various capacities, with amounts paid them and their official status.

(*c*) The average length of time officers spend in the grade of second lieutenant.

ENGLISH ARMY.

The army veterinary service consists of: (1) Army veterinary staff; (2) army veterinary corps, administered by the director general, army veterinary staff, under the director of transports and remounts in the quartermaster general's department of the war office.

The veterinary corps is composed of veterinary officers below the rank of colonel and noncommissioned officers and men employed on veterinary duties.

The establishment of the army veterinary service is—

Staff.—One director general, with rank of major general, and five colonels.

Corps.—One hundred and sixty-two officers—5 lieutenant colonels, 24 majors, 58 captains, 75 lieutenants, and 221 other ranks.

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FRENCH ARMY.

It ma · be said that in general the veterinary service in France is practically the same as that in the United States Army. The veterinarians form, in effect, a corps and are attached to army headquarters, headquarters of corps and divisions, regiments of artillery and cavalry, engineers, the train, remount depots, schools of application, etc. The chief of the service is known as chief veterinary and has the assimilated rank of colonel. There are assistant chief veterinarians having the assimilated rank of lieutenant colonel, veterinary majors with the assimilated rank of major, veterinarians first class with the assimilated rank of captain, veterinarians second class with the assimilated rank of first lieutenant and veterinarians third class with the assimilated rank of second lieutenant. The veterinarians belonging to the reserve are veterinarians second class and third class. They have under the law the regulations and the pay, allowances, etc., of their assimilated rank. In the regiments to which they are attached they are not exactly on the same footing as officers entitled to command and their social relations with the officers are such as they are entitled to by reason of their education, manners, personality, etc.

An examination of the list of veterinarians indicates that the chief veterinary is stationed at army headquarters and is a number of the cavalry board. The assistant chief veterinarians are assigned to administrative positions. The veterinary majors are assigned to artillery regiments and usually have an assistant. Veterinarians first, second, and third class are assigned to cavalry regiments, the train, remount depots schools of application, and assistant veterinarians in artillery regiments, etc.

General duties.—The veterinary service has charge of the hygiene, shoeing and medical treatment of all the animals employed in the Army; also of the inspection of meat pertaining to the rations.

Strength of the veterinary service.—On January 1, 1908, the veterinary service had the following strength: 1 chief veterinary, first class (colonel); 15 assistant chief veterinarians (lieutenant colonels); 42 veterinary (majors); 196 veterinarians, first class (captains); 207 veterinarians, second class (first lieutenants); 55 veterinarians, third class (second lieutenants).

Veterinarians of the reserve.—On January 1, 1908, the reserve veterinarians numbered 429. The requisite number would be 698. These veterinarians are all veterinarians, and are third class.

GERMAN ARMY.

The veterinary service is a subdivision of the general inspection of cavalry, and at its head is the inspector of military veterinary affairs, which include the Military Veterinary Academy of Berlin, the Farriers' School, and the veterinarians.

The grades and number of veterinarians are:

	Number.	Pay per year.
1. Army corps veterinarians	27	$761.60
2. Ober stab and stab veterinarians	72	714.00
	142	642.00
3. Ober veterinarians	299	571.20
4. Under (sub) veterinarians	151	287.03
Total	691	.....

Underveterinarians receive, in addition to their pay, the usual allowances to enlisted men of clothing, food, and quarters.

The members of the first three classes are officers without military rank; the highest with the rank of a councilor (civil grade) of the fourth class. They are termed "military officials." Stab (officers) are field officers; ober (officers) are company officers; and underveterinarians are noncommissioned officers.

Under or sub veterinarians have the rank of first sergeants, and below them are others of the rank of vice first sergeant and sergeant.

The veterinary service is under the "inspector of the military veterinary department," who is a colonel of cavalry, with a captain of cavalry as assistant.

Socially, the "officials" have the status of officers, live where it is convenient, and take outside practice, but this must be subordinated to service with regiment or corps.

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AUSTRIAN ARMY.

The Austrian veterinary service is organized similar to that of the German Army.

Ober stab veterinarian (at war office)	1
Ober stab and stab veterinarians (with army corps)	16
Ober veterinarians	70
Veterinarians	67
Under (sub) veterinarians	76
	230

Ober stab veterinarians are civil officers of the seventh class.
Stab veterinarians are civil officers of the eighth class.
Ober veterinarians are civil officers of the ninth class.
Veterinarians are civil officers of the tenth class.
Underveterinarians are civil officers of the eleventh class.
Student veterinarians are of the twelfth class.

The higher direction of the veterinary service belongs to the third division of the war office. Each army corps has one staff veterinary surgeon. Veterinary personnel consists of veterinary officials and their assistants.

(*b*) Number of veterinarians now employed by the United States military establishment in various capacities, and amount paid them.

No.	Official status.	Pay per year.	Total.
42	Veterinarians (2 for each regiment of cavalry and field artillery)	$1,700	$71,400
4	Inspectors of animals (civilians)	1,800	7,200
14	Veterinarians (civilians)	1,200	16,800
1	Meat inspector in charge (civilian)	2,000	2,000
4	Meat inspectors (civilians)	1,800	7,200
65			104,600
	Estimated for additional pay for length of service for the 42 veterinarians of cavalry and field artillery		9,520
	Total		114,120

(*c*) The average length of time that officers spend in the grade of second lieutenant is six years and five months.

EXHIBIT B.

ORGANIZATION OF CANADIAN ARMY VETERINARY SERVICE.

[G. O. 151, November, 1910.]

The organization of the Canadian Army veterinary service has been approved.

Organization.—1. The army veterinary service of the Canadian Militia shall consist of three branches:

The Canadian permanent army veterinary corps.
The Canadian Army veterinary corps.
The regimental veterinary service.

2. *The Canadian permanent army veterinary corps* shall consist of veterinary officers gazetted to the corps and of noncommissioned officers and privates enlisted therein. The names of the officers so gazetted shall be arranged on a regimental list of officers of the C. P. A. V. C. in order of seniority.

3. *Detachments, C. P. A. V. C.*—Officers, N. C. Os., and men of the C. P. A. V. C. will be detailed by the officer administering C. A. V. S. to form detachments for duty as required in commands and independent districts.

4. *The Canadian Army veterinary corps* shall consist of veterinary officers gazetted to the C. A. V. corps. Their names shall be arranged on a regimental list of officers of the C. A. V. C. and they will be detailed for duty with mounted corps of the active militia as required for a period not exceeding four years. When it is considered advisable, this term may be extended.

5. *Regimental veterinary service.*—This branch consists of the veterinary officers at present on the regimental staff of mounted corps. No veterinary officers shall, in future, be so appointed.

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6. The number of the personnel of both the C. P. A. V. C. and of the C. A. V. C. shall be as laid down in the establishment list annually approved by the governor in council.

7. *Rank, pay, and precedence.*—Officers will be entitled to rank and precedence, and subject to the provisions of the pay and allowance regulations, and other advantages attached to corresponding rank of combatant officers, but such rank or position will not entitle the holder of it to the presidency of court-martial, other than regimental, nor will they exercise any military command outside the C. P. A. V. C. or C. A. V. C., except over such officers or soldiers as may be attached thereto for duty.

8. *Administration and command.*—O. A. C. A. V. C.: The officer administering the Canadian Army veterinary corps shall be the director of transport and supplies.

9. *P. V. Os.*—The principal veterinary officer of a command or independent district may be appointed from the regimental lists of the C. P. A. V. C. or C A. V. C., or from the regimental veterinary service.

10. *Duties.*—Any officers holding the appointment of P. V. O. (principal veterinary officer) shall be responsible to the O. C., the command, or independent district for the administration of the Canadian Army veterinary service, and shall command the C. A. V. corps within the command or independent district.

11. *C. O. C. P. A. V. C.*—The commanding officer of the C. P. A. V. C. in a command or independent district, shall be the senior C P. A. V. C. officer of the detachment detailed for duty in the command or independent district.

12. *Duties.*—Any C. O. of the C. P. A. V. C. shall distribute the personnel of the C. P. A. V. C. allotted to the command or independent district by the O. A. C. A. V. C., as circumstances may require.

13. *Stores.*—Veterinary stores in commands or independent districts will be under the charge of P. V. C.

14. *Qualifications for C. A. V. C.*—Candidates for admission to the Canadian Army veterinary corps must make a written application to the officer commanding the command or independent district on M. F. B. 237. The minimum age of candidates is 21 years and the maximum 35 years, except in very special cases or on urgent occasions, when the latter limit may be exceeded. Candidates will not be accepted unless, in the opinion of the minister in militia council, they are in all respects suitable to hold commissions in the active militia of Canada.

15. Every candidate for a commission must be a graduate of a recognized veterinary college, and must be recommended by the P. V. O. of the command or independent district.

16. Candidates on appointment shall be given the rank of veterinary lieutenant, but shall be required to undergo a qualifying examination within two years of their appointment.

17. After five years' service in that rank, veterinary lieutenants may, if recommended by the P. V. O. of the command or independent district, and after successfully passing the examinations laid down in the regulations for the Canadian Army veterinary services, be promoted to the rank of veterinary captain, and veterinary captains, after 10 years' service in that rank, may be promoted to the rank of veterinary major.

18. Veterinary majors, after five years' service in that rank, and who have served consecutively during 20 years as veterinary officers, may be given the rank of veterinary lieutenant colonel.

19. Officers of the regimental veterinary service will be governed by the provisions of paragraphs 17 and 18 as regards promotion. The appointment of these officers will remain as at present, viz, veterinary lieutenant, veterinary captain, and veterinary major.

20. The following regulations will be observed in the appointment of qualified candidates to the Canadian Permanent Army Veterinary Corps. The rates of pay and rules regarding promotion and retirement of veterinary officers are laid down in the pay and allowances regulations, and in K. R. & O. for the militia.

21. Candidates for admission to the C. P. A. V. C. must make written application to the secretary of the militia council. The minimum age of candidates is 21 years, and the maximum 35 years, except in very special cases, when the latter limit may be exceeded. Candidates will not be accepted unless, in the opinion of the minister in militia council, they are in all respects suitable to hold commissions in the Canadian Permanent Army Veterinary Corps.

22. Every candidate must be a British subject and a graduate of a recognized veterinary college, and will be required to pass an examination before a board of veterinary officers before being granted a commission.

23. He will be required to forward a certificate of birth or satisfactory proof of age with his application.

24. If his application is approved he will be required to be certified by an officer of the P. A. M. C. being physically fit.

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25. *Examination for appointment.*—

Written: Maximum marks.

Veterinary medicine (2 hours) 1,000
Veterinary surgery (2 hours) 1,000
Veterinary hygiene (2 hours) 1,000

(General papers referring to both horses and cattle, and embracing pathology in all its branches, surgical anatomy, and general and special hygiene.)

To qualify, 50 per cent in each subject.

Oral: Maximum marks.

Examination of horses includes soundness generally and certificates thereon, ageing, shoeing, the eye, and detection of lameness 3,000
Clinical diagnosis, the practical handling of animals, and administration of medicines 3,000

To qualify, 50 per cent in each subject.

An aggregate of 60 per cent in all subjects combined will be required.

A candidate will be rejected if he shows any deficiency in his general education.

26. *Promotion.*—A lieutenant shall be eligible for promotion to the rank of captain on completing five years' commissioned service in the C. P. A. V. C., providing he has previously qualified in such manner as may be prescribed.

27. A captain shall be eligible for promotion to the rank of major on completing 10 years' commissioned service in the C. P. A. V. C., providing he has qualified in such manner as may be prescribed.

28. Promotion to the rank of lieutenant colonel shall be made by selection from majors of not less than 20 years' commissioned service in the C. P. A. V. C., who have previously qualified in such manner as may be prescribed.

29. *Examinations—Lieutenants before promotion to captain.*—This examination may take place any time after completing two years' service.

Subjects: Duties of executive veterinary officers; military law.

30. *Captains before promotion to major.*—This examination may take place any time within three years of becoming eligible for promotion.

The subjects of this examination, which are detailed in K. R. & O. for the army, are as follows:

(1) Veterinary medicine.
(2) Veterinary surgery.
(3) Veterinary hygiene.
(4) Veterinary bacteriology and tropical diseases.
(5) One special subject selected by the candidate with approval of the O. A. C. K. S.

31. *Majors before promotion to lieutenant colonel.*—The subjects of the examination, which are detailed in K. R. & O. for the army, are as follows:

(1) Military law (Manual of Military Law, King's Regulations and Orders).
(2) Duties of administrative veterinary officers at home and abroad.
(3) Management of epizootics.
(4) Sanitation of camps, stables, and transport from the veterinary point of view.
(5) Army veterinary organization in peace and war.
(6) The veterinary history of previous campaigns.

32. *Noncommissioned officers.*—Farriers and shoeing smiths before promotion will be obliged to qualify for each step in rank, as laid down in Regulations for Canadian Army Veterinary Services. (H. O., I-84-1.)

Canadian Permanent Army Veterinary Corps.

Ranks.	Personnel.	Horses.
Lieutenant colonels	2	2
Captains	1	1
Lieutenants	2	2
Total officers	5	5
Quartermaster sergeants	1	1
Staff sergeants	1	1
Sergeants	2	2
Total staff sergeants and sergeants	4	4
Total	9	9

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Canadian Army Veterinary Corps.

Ranks.	Personnel.	Horses.
Lieutenant colonels	6	6
Majors	12	12
Captains	24	24
Lieutenants	58	58
Total officers	100	100
Staff sergeants	5	.....
Sergeants	30	.....
Total staff sergeants and sergeants	35	.....
Corporals	40	.....
Privates	75	.....
Total rank and file	115	.....
Total	250	100

It is thought that it will greatly improve the service to give the rank provided in this bill, and in that way much money will be saved by virtue of increased efficiency in this service. The veterinary surgeons of this country are a body of highly trained and intelligent men who have made and are making great strides toward progress in their profession; and it is not reasonable to expect that the Government can secure the best talent of the profession unless some fitting and substantial recognition is given to it.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 605.

MINING EXPERIMENT STATION, SALT LAKE CITY, UTAH.

APRIL 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOWELL, from the Committee on Mines and Mining, submitted the following

REPORT.

[To accompany H. R. 22088.]

The Committee on Mines and Mining, to whom was referred the bill H. R. 22088, being a substitute for H. R. 11853, to establish a mining experiment station at Salt Lake City, Utah, to aid in the development of mineral resources of the United States, and to undertake any investigation or operation for the health and safety of persons employed in mining, quarrying, metallurgical, and other mineral industries, and for other purposes, having had the same under consideration, respectfully recommend that it do pass.

This bill has been introduced in response to an increasing demand of the mining States for an extension of the activities of the Bureau of Mines to metalliferous mining. The purpose of this legislation received the attention of the late Mining Congress, composed of able representatives from all the mining States, which unanimously adopted the following resolution:

Whereas the development of processes of ore treatment capable of handling with profit the vast low-grade deposits and mine dumps of our mining districts is of the greatest importance to the mining industry and to all related industries:

Be it resolved, That it be the sense of the American Mining Congress that the Congress of the United States be, and is hereby, memorialized to provide for the establishment, under the direction of the Bureau of Mines, of a metallurgical experiment ore-testing station or stations for the purpose of devising methods for the extraction of metals from low-grade ores and appropriate sufficient funds for such purpose.

Resolved further, That the officers of the American Mining Congress draft a suitable bill providing for the proper carrying out of this resolution, and that copies of the bill and of this resolution be forwarded to the President of the United States and each Senator and Representative; and that the officers of the American Mining Congress use all honorable means to the end that such a bill may become a law. In view of the increasing importance and complexity of the mining and metallurgical industries, the deplorable waste in mining under present methods, and the great need of trained men to aid in improving these conditions and in developing greater safety and efficiency.

Be it resolved, That the American Mining Congress, now in session at Chicago, urges the Congress of the United States at Washington to provide for aid and cooperation in

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the maintenance of mining schools in the several States in a manner analogous to that which has been done in behalf of agriculture.

Be it resolved, That the members of the American Mining Congress and the friends of the mining industry throughout the country are hereby urged to cooperate in securing the proper legislation necessary to carry above purpose into effect.

The opening address of the distinguished president of the congress on this subject sets forth so clearly and convincingly the claims of those engaged in the metal-mining industry that I invite attention to the following quotation from his remarks:

We believe that the Bureau of Mines ought to be to the miner what the Department of Agriculture is to the farmer. When the Department of Agriculture was created, it was the object of much criticism, and yet it is now one of the most important factors in our national life and nobody wants it abolished. I am an ardent admirer of the Department of Agriculture and of the work that it is doing. So far as tangible results are concerned, I believe it is the most useful branch of our Government. It tells the farmer how to maintain the fertility of his soil by rotating crops; when and how to plow his land; what sort of crops to raise and how to get the highest yields; how to irrigate his land if it does not rain enough, and how to drain it if it rains too much.

If these great things are done for agriculture, why not do something for agriculture's sister—mining? Be it remembered that man's every need is supplied by our mother earth. Out of the earth's crust comes everything we drink, eat, wear, or use, all our habitations, conveyances, tools, and, in fact, everything we have, be it necessity or luxury. Agriculture and mining are the twin sciences that divide between themselves the work of extracting these things from the earth. Agriculture has the vegetable kingdom and mining the mineral kingdom. Is there any reason why agriculture should be made the favorite child of our Government, while mining is treated as a stepchild? The two sciences are of equal importance, and neither could exist without the other. We are not in the least jealous of the treatment that has been accorded to agriculture. She merits it all and more. We only plead that mining be likewise recognized and given her just dues. To those who argue that agriculture is the more important, we say, "Pause and reflect whether any sort of civilization could be possible without the products of the mines." It is undoubtedly true that no mining or any other sort of work could be done without agriculture, but agriculture alone is helpless to advance the human family in its onward march toward higher and better things.

The bill has been drawn to meet the pressing demand thus set forth and is as follows:

[H. R. 22088, Sixty-second Congress, second session.]

A BILL To establish a mining experiment station at Salt Lake City, Salt Lake County, Utah, to aid in the development of the mineral resources of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, established at Salt Lake City, in Salt Lake County, Utah, a mining experiment station, which shall be under the supervision, management, and control of the Bureau of Mines.

SEC. 2. That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint, as the superintendent of said mining experiment station, one expert mining and metallurgical engineer at a salary of four thousand dollars per annum, one chemist at a salary of two thousand five hundred dollars per annum, and such other employees as he may deem necessary to carry out the provisions of this act; and for the purpose of inaugurating and maintaining the said mining experiment station, including the payment of salaries, purchase of equipment, supplies, expenses of travel, payment of rent, and other expenses of every sort incident thereto, the Secretary of the Interior is authorized to expend annually a sum not exceeding twenty-five thousand dollars.

SEC. 3. That it shall be the province and duty of said mining experiment station, under the direction of the Bureau of Mines, to conduct inquiries and scientific investigations concerning the mining, preparation, treatment, and utilization of ores and other mineral substances with a view to improving health conditions, increasing safety, efficiency, economic development, and the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries, and as will facilitate the proper and efficient development of the resources of the public domain; and to dis-

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seminate information concerning these subjects in such manner as will best carry out the purposes of this act.

SEC. 4. That nothing in this act shall be construed as authorizing the Bureau of Mines, or any employee of said bureau engaged in the work herein provided for, to undertake any investigation or operation in behalf of any private party, except for the health and safety of persons employed in the mining, quarrying, metallurgical, and other mineral industries; nor shall any of the regular employees of said bureau engaged in such investigations have any personal or private interest in any mine or the products of any mine under investigation.

As an indication of the importance attached to this measure, the commercial club, composed of the business and mining men of Salt Lake City, after full discussion of the question, unanimously adopted the following resolutions:

[Report of commercial club's committee on mines and mining adopted at the general membership meeting of the commercial club, Dec. 22, 1911.]

Whereas the American Mining Congress at its last annual session passed a resolution asking the Congress of the United States to enlarge the scope of the United States Bureau of Mines by establishing under its auspices metallurgical research stations, thus affording the mining industry the same encouragement and treatment at the hands of the General Government as is given the agricultural industry, and that an appropriation sufficient to carry out the enlarged functions of the United States Bureau of Mines be made; and

Whereas the present activity of the bureau is confined to the coal-mining industry, and should be equally devoted to the advancement of the metal-mining interests; and

Whereas Salt Lake City is the center of activity of the mining and smelting industry of the United States: Therefore be it

Resolved, That the Salt Lake Commercial Club, by its assembled membership, give its indorsement to the general idea of the establishment of Government metallurgical research stations: Be it further

Resolved, That the Congress of the United States be, and is hereby, memorialized to appropriate for the use of the Bureau of Mines the sum of $500,000 for such experimental purposes and that it enact a law providing for the establishment of such metallurgical research station at Salt Lake City, Utah: Be it further

Resolved, That a copy of this resolution be forwarded to Senator Reed Smoot, Senator George Sutherland, and Congressman Joseph Howell for presentation to Congress, and that these members of the Utah congressional delegation be earnestly urged to use all energetic and honorable means to bring about the aforesaid results: Be it further

Resolved, That a committee of two be appointed by the board of governors of the commercial club to bring this resolution to the attention of individual Representatives in Congress and use all honorable means to procure legislation necessary to bring about the purposes of this resolution.

Before reaching a conclusion, your committee held full hearings and referred the bill to the Department of the Interior for consideration, and the report of the Secretary thereon is favorable to the legislation, and is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 1, 1912.

Hon. MARTIN D. FOSTER,
Chairman Committee on Mines and Mining, House of Representatives.

DEAR SIR: Replying to your letter of March 21, asking for my opinion on House bills 22080, 22081, and 22088, relative to the establishment of mining experiment stations in the States of California, Colorado, and Utah:

The purpose of these bills is to provide for "inquiries and scientific investigations concerning the mining, preparation, treatment, and utilization of ores and other mineral substances, with a view to improving health conditions, increasing safety, efficiency, economic development, and the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries, and as will facilitate the proper and efficient deve opment of the resources of the public domain."

This purpose and the main features of these bills meet with my approval.

Such investigations will be helpful in the development of mining on the public lands of each of the States, both within and without the national forest reserves; and

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the necessary expenditures for conducting these investigations will be justified more than under ordinary conditions, for the reason that in these States the Government is itself largely interested in any and all investigations looking to the proper development of the mining and metallurgical industries.

I believe, however, that in each of these bills, instead of locating specifically in each State just where the experiment station is to be established, it would be wiser to leave the question of specific location to the department, so that the investigations might be conducted from time to time at whatever point there proved to be most need of investigations and where the investigations might be carried on under the most favorable conditions. Indeed, a movable location for each station might enable the department to carry out the purposes of these bills with greater economy and efficiency than could be done under any other plan.

Under the provisions of these bills there can be no possible conflict of interests between the investigations for which they provide and the work of private mining and metallurgical engineers and chemists.

Very respectfully, WALTER L. FISHER, *Secretary.*

While the Secretary of the Interior makes no suggestion as to the definite location of such experimental stations, the claims of Salt Lake City as the most suitable place for such investigations is so obvious that your committee have no hesitation in recommending the bill as proposed.

Salt Lake City is the metropolis of and situated in the heart of the vast mining region of the Intermountain States. It is in close proximity to the chief mining districts of Utah. It is the natural center of the mining activities of the surrounding States, and easily accessible to the leading mining districts by a splendid system of continental railroads centering there and reaching in all directions to all sections of the country. The State School of Mines is located at this point and anxious to cooperate in effectuating the beneficial purposes to be accomplished by this legislation.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 606.

INDEPENDENT GOVERNMENT FOR THE PHILIPPINES.

APRIL 26, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JONES, from the Committee on Insular Affairs, submitted the following

REPORT.

[To accompany H. R. 22143.]

The Committee on Insular Affairs, to whom was referred the bill (H. R. 22143) entitled "A bill to establish a qualified independent government for the Philippines and to fix the date when such qualified independence shall become absolute and complete, and for other purposes," beg leave to report that they have had the same under consideration and recommend that the said bill do pass with the following amendments, to wit:

Insert the words "and maintained" after the word "established," in line 17 on page 2 of the bill.

Strike out the word "such" after the word "around," in line 10 on page 4 of the bill, and insert in lieu thereof the words "any and all."

Strike out the period after the word "Philippines," in line 13 on page 4 of the bill, and insert in lieu thereof a comma and add the words "and shall further guarantee that all property rights by whomsoever legally acquired shall be held inviolate."

Strike out the word "nineteen" after the word "April," in line 19 on page 4 of the bill, and insert in lieu thereof the word "eighteen."

Strike out the words "thirty-nine" after the words "composed of" in line 19, on page 5 of the bill, and insert in lieu thereof the words "thirty-eight."

Insert the word "and" after the word "Mindoro" in line 3, on page 6 of the bill.

Strike out all of the paragraph after the word "law" in line 5, on page 12 of the bill, and insert in lieu thereof the words:

Provided, however, That from and after the fourth day of July, nineteen hundred and thirteen, for a period of eight years, all public acts of the government of the Philippines shall be transmitted, as soon as practicable after their enactment, to the President of the United States, who shall have the absolute veto power over the same, such veto power to be exercised, if at all, within thirty days after the reception by him of such act. If he approve or fail to veto such act, the same shall be transmitted

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to the Congress of the United States. The Congress of the United States during said eight years' period may annul any bill passed by the Congress of the Philippines at any time after it may have gone into effect.

Strike out after the word "was" in line 10, on page 13 of the bill, the remainder of the paragraph, and insert in lieu thereof the word "sent."

Strike out the words "temporary or probationary" after the word "the" in line 8, on page 26, and the words "for the ensuing eight years" after the word "established" in line 9, on page 26, of the bill.

Before proceeding to outline the purposes, or to discuss the various features and different provisions of this bill, it may be well to indicate briefly, and in general terms, the character of the instruments of government employed in the administration of the affairs of the people of the Philippine Islands during the 13 years that have elapsed since the ratifications of the treaty of peace between the Kingdom of Spain and the United States were exchanged at the city of Washington. This exchange, which took place on the 11th day of April, 1899, constituted the consummating act in the negotiations which resulted in the reestablishment of peace between these two nations, and the transfer of sovereignty over the Philippine Islands from Spain to the United States. From this time on and up to the 1st day of September, 1900, the commander of the American Army of occupation in the Philippine Islands, acting as military governor, exercised complete and undivided authority, legislative as well as executive, throughout the Philippine Archipelago. In other words, it may be said that during this period the government of the Philippine islands was essentially a military autocracy.

In an official communication, bearing date the 7th day of April, 1900, the President of the United States informed the Secretary of War of the appointment by him of a commission to the Philippine Islands, composed of five eminent Americans, namely, the Hon. William H. Taft, Prof. Dean C. Worcester, Hon. Luke I. Wright, Hon. Henry C. Ide, and Prof. Bernard Moses, of which Mr. Taft was to be the president. This Executive order set forth with some particularity the powers and duties conferred upon this commission, and transferred, on and after the 1st day of September, 1900, from the military governor to this new governing body, of at least doubtful constitutionality, "that part of the government in the Philippine Islands which is of a legislative nature."

By a subsequent Executive order, bearing date June 21, 1901, the Hon. William H. Taft, the president of the Philippine Commission, was appointed civil governor of the islands and empowered to exercise all executive authority on and after the 4th day of July, 1901. From and after that date the military governor was relieved from the performance of civil duties, except as to those districts in which insurrection against the Government of the United States continued to exist or in which public order was not completely established. Thenceforth and up to the enactment by Congress of the act of July 1, 190-, the Taft Commission, in the meantime increased to eight members by the addition of three Filipinos, exercised all legislative authority in the Philippine Islands, whilst the executive functions of the so-called civil government thus set up by the President, acting in the capacity of Commander in Chief of the Army and Navy, were divided between a military commander and a civil governor.

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Thus it appears that during the period which elapsed between the time of Spanish evacuation and the enactment by Congress of the act of July 1, 1902, a period of something more than three years, there existed in the Philippine Islands no less than three distinct forms of government differing materially the one from the other. The act of July 1, 1902, although in express terms declared to be merely a temporary measure of civil administration, has, with slight and unimportant amendments, remained the organic law of the Philippines for practically a decade. The bill which your committee has had under consideration not only provides in the near future, and for a definite probationary period of eight years, for a larger participation of the Philippine people in the affairs of their government than they now enjoy; but it will, if enacted into law, confer upon them at the end of that period the absolute control of their affairs, both domestic and foreign, together with their complete and unqualified independence.

THE FILIPINOS DESIRE INDEPENDENCE.

When the existing law was being considered by the Committee on Insular Affairs 10 years ago some of its advocates testified that a majority of the educated and substantial people of the Philippine Islands, whose opinions the Federal Party was said to represent, favored the permanent annexation of the islands to the United States. A prominent Filipino who at one time occupied the position of secretary of state under the Malolos government, of which Gen. Emilio Aguinaldo was the president, but who subsequently, and at that very time, was an officeholder under the Taft Commission, claiming to be the authorized spokesman of the Federal Party, testified at the committee hearings that a majority of all the Filipino people favored American annexation rather than independent self-government.

Whatever influence this testimony may have had in shaping the Philippine legislation of 10 years ago, it should certainly have none in this day and generation, for the Federal Party itself, the only political organization in the Philippine Islands ever favoring permanent annexation, has long since ceased to exist, and its successor, the Progresista Party, is quite as outspoken in its advocacy of independence as is the Nacionalista, which has always stood for an independent self-government. There is, therefore, to-day practically, if not absolutely, no division of sentiment among the civilized, Christian inhabitants of the Philippine Archipelago in respect to this question, whatever may have been the case a decade ago. The highest aspiration, the one great, overmastering desire of the Philippine people is to see their country free and independent. The blood shed and the untold privations for years endured for freedom's sake by this, the only Christian people in the vast Orient, abundantly testified in the past to their longing for independence. The unparalleled and phenomenal spread of education throughout the archipelago in recent years, a larger participation in public affairs, a wider and more intimate knowledge of the problems of government, and the valuable experience gained through actual practice in a popular legislative assembly have not only contributed immensely toward preparing the Filipinos for the exercise of self-government, but have at the same time quickened and intensified their desire to become a free and independent people.

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NO AMERICAN SENTIMENT FAVORABLE TO PERMANENT RETENTION.

It is doubtful if there is to-day any considerable or even appreciable public sentiment in the United States favorable to the permanent retention of the Philippines. When these islands were first acquired, and for a few years thereafter, there was a more or less prevalent belief that their permanent retention would prove of great commercial advantage to the United States. It is true that during the past two years, those in which Philippine products have had free access to the markets of the United States, the value of the trade between the two countries was materially increased, and yet if every dollar in value of the merchandise imported into the Philippine Islands from the United States during the fiscal year 1911 had been clear profit to the American manufacturer, the sum total would not have equaled the cost to the people of the United States of the maintenance for a single year of our military establishment in the Philippines.

The total value of the importations, exclusive of those for the use of the Army, Navy, and the Government of the Philippine Islands, and for government-aided railroads, all of which were free of duty, was $15,052,808, while the value of the Philippine products exported to the United States during the fiscal year was $16,813,864. Thus it is apparent that the combined values of the exports and imports for the year 1911 do not equal in amount the total annual cost of the Philippine Islands to the American people. So the commercial argument which at one time was vigorously advanced in favor of the permanent retention of the Philippine Islands has now been practically abandoned.

CAPACITY FOR SELF-GOVERNMENT.

Those who oppose fixing a definite time at which the Philippine Islands shall acquire their independence, although professing to favor their ultimate independence, base their opposition upon the assumption that the Filipinos are not as yet capable of governing themselves. They do not hazard even a guess as to when that time may be expected to arrive; in the judgment of most of them it may be a generation, possibly two or three generations. The menace to the peace and happiness of the American people which lies in the indefinite retention of the Philippine Islands is not to be compared, in their judgment, to the harm which they fear may result to the Filipinos if they are prematurely given the independence which they crave, and to which, it is admitted, they will some day be entitled. The grievous financial burdens which their long-continued retention as a colonial dependency will entail upon the American taxpayers is as nothing, they contend, compared to the moral obligations which the United States have assumed. Thus the "moral" or "altruistic" argument, based upon the alleged incapacity of the Filipinos for self-government, is the only argument now heard in favor of the indefinite retention of the Philippines.

But, is it true, according to any just and fair standard, that the Philippine people are not capable of self-government? For, if not true, then the only argument seriously advanced by those who would deny them independence must fall to the ground. The facts, or

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alleged facts, relied upon to establish their incapacity for self-government are (*a*) that the Philippine population is made up of many different tribes, inhabiting different islands, or different parts of the same islands, and speaking different dialects or languages; (*b*) that because of this isolation and difference of language they possess no common means of intercommunication; (*c*) that a number of these tribes are uncivilized and unchristianized and will always remain so, and that the Moros, the most savage and adventurous, as well as the most numerous, of the wild tribes, can never be brought to live peaceably under any government which may be established by Christian Filipinos; and, lastly (*d*), that the percentage of illiteracy, even among the Christian inhabitants, is too great to permit of any intelligent administration of government. In fine, it is contended that, wanting in education and civilization and lacking a common religion and a common language, it follows that the Philippine people have not that community of thought, of feeling, and of interest, that national unity and spirit, or that intelligence and educational capacity, essential to the successful establishment and permanent maintenance of a free, autonomous, and stable government.

According to the census of 1903, the population of the Philippine Islands was 7,635,426. Of these, 6,987,686 are classified as civilized. Only 647,740 are described as wild or uncivilized. Of the so-called uncivilized tribes, 277,547 are Moros, who inhabit the southeastern and western portions of the island of Mindanao, which is the southernmost and next to the largest of all the islands, and the islands of the Sulu group; 211,520 are Igorots dwelling in northern Luzon; 56,189 are Bukidnon, of the Province of Agusan, in eastern Mindanao and the remainder are scattered in small groups throughout the islands. These official figures indisputably prove that the vast majority of the Philippine people are civilized, and many of the most beautiful cathedrals to be found anywhere in the world, as well as other substantial and costly church edifices scattered throughout the civilized portions of the islands, attest most strongly to the deep religious character of the Filipinos.

But even were it admitted that the Moros are intractable and incapable of civilization, the census figures show that they constitute less than 4 per cent—or, to be exact, just 3.7 per cent—of the whole population of the islands. Indeed, these figures show that they are actually outnumbered by the civilized Filipinos of Mindanao, notwithstanding that 226,158 of the 277,547 Moros (2,323 of whom are themselves civilized) dwell in that island. It is a fact not generally appreciated, if known, that 296,845 Christian Filipinos also inhabit the island of Mindanao. In Zamboanga, in the Moro Province, one of the most delightful of the cities of the Philippine Archipelago and the fourth in commercial importance, there were 44,322 inhabitants in the year 1903, almost equally divided between Christians and non-Christians. These facts conclusively prove that the Moros may well be regarded as a negligible quantity in considering the question of the capacity of the Philippine people for self-government. But the work of education and civilization is progressing even among the Moros, with far better results than any of the historians and writers upon this subject of a decade ago believed to be possible.

The remainder of the wild tribes are so widely distributed throughout the archipelago, and have in the past given so little trouble to

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their civilized neighbors, that their government has never been looked upon as a serious problem—they must continue in a large degree the wards of the nation whatever may be the form of government under which they live. Is it then unreasonable, in view of the foregoing facts, to indulge the hope that these wild people, all of whom are of Malayan origin, would more readily submit to the restraints of a government participated in by them, and established for their protection by members of their own race, than to those imposed by an alien people? Do the facts hereinbefore set forth justify the belief that the government of the wild men of the Philippine Islands will ever become to the Filipinos, if given their independence, so difficult a problem as has been that of the American Indians to the Government of the United States?

It is true, of course, that the Philippine Archipelago is composed of many islands, and that there is no native language which is universally spoken. A large majority of the whole people, however, speak either Tagalog, Visayan, or Ilocano, which are the three principal languages of the islands. Nearly half of the Christian population or 3,219,030, are Visayans, and there are 1,460,695 Tagalogs in the island of Luzon, to say nothing of the members of other tribes who to the number of 2,000,000 speak Tagalog. For 300 years the official language of the Philippines has been Spanish, and whilst the percentage of the rural population speaking it was never very large, it was, nevertheless, spoken throughout the archipelago by the educated and office-holding classes and is quite universally spoken in Manila and other cities and large towns.

There has been a noticeable disposition in some quarters to create the impression that the Filipinos are an ignorant and illiterate people. This was very far from the truth, even prior to American advent. To demonstrate this it is only necessary to advert to a few salient facts bearing upon the subject of education during the long years of Spanish control. The University of St. Joseph was founded by the Jesuits in Manila very nearly 325 years ago, and 17 years before the doors of the first American college were opened the Dominican Order of the Catholic Church in the Philippine Islands established, also in Manila, the University of St. Thomas, which for more than three centuries has been in successful operation. And yet the Tagalogs had attained a well-defined civilization long before the advent of either the Dutch or the Spanish. Prior to the year 1863 there were parochial schools throughout the islands, but it was not until that year that primary schools were established, under the royal decree of December 20, in every municipality of the archipelago. In addition to the many private and church schools which had long been in existence prior to 1866 Spanish school statistics for that year show that there had then been established 1,674 Government-supported schools, attended by 230,358 Filipino boys and girls. There were that year 1,681 matriculates at the University of St. Thomas engaged in the study of the higher branches of learning. There were also located in Manila prior to the revolution against Spain five colleges devoted to the education of women, among them the College of Santa Isabel; a college of agriculture; a nautical school; a superior school of painting, sculpture, and engraving; a military academy; and a number of other colleges of more or less importance, where the higher branches were taught. There were, too, as many as 9 other colleges and 67 high-grade Latin

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schools located in various sections of the islands. A people enjoying such superior educational advantages as these can scarcely be characterized as ignorant and illiterate. Especially can it not be said of the Tagalogs, who for ages have possessed a rich literature of their own. Even in the outlying Christian settlements of northern Luzon a majority of the population could read and write their own language long before the power of Spain over the islands was broken.

It will scarcely be denied that since American occupation immense progress has been made in the direction of education. Not only have thousands of public schools been established all over the archipelago, but the standards of most of the old ones have been raised. In all of the new, and in many of the old, English is employed and taught, and the natives are evincing a praiseworthy desire to become proficient in it. Many night schools have been established for the benefit of the laboring classes, and they, as well as the higher schools, are all well attended. For nearly 10 years the average public-school enrollment has not been less than 500,000. The report of the secretary of education for the year ending June 30, 1911, shows that the enrollment for that school year reached the high-water mark of 610,493, not including 5,302 pupils enrolled in the schools of the Moro Province. The total number of public schools in operation last year, according to this report, was 4,404, and the total number of teachers employed at the end of the school year was 9,086, of whom 8,403, or over 92 per cent, were Filipinos. It is shown, too, that there was a general improvement on the part of the Filipino teachers during the year, both in scholastic attainments and in ability to teach. A splendidly equipped normal school was established in 1901 and reorganized in 1909.

This institution is annually training hundreds of young men and women to teach under the conditions which exist in all Provinces of the islands, civilized or uncivilized. The first Philippine Legislature provided for the establishment of the University of the Philippines, which was organized something over two years ago. It provides advanced instruction in literature, philosophy, and the sciences and arts, and affords professional and technical training for students who have passed through other colleges. The total registration of students at this institution of higher learning in August of last year was 1,220. All the lectures, of course, are in English and many of the learned professors are Filipinos. The late James A. Le Roy, who, for two years was connected with the Philippine Commission, and who, therefore, possessed exceptional opportunities for securing information upon the subject, says in his admirable book on the Philippines, published in 1905, that "approximately one-half the Christian population over 10 years of age is literate," and that this included "the people of the most backward and outlying Christian settlements in the mountains of north central Luzon, in unsettled islands like Mindoro and Palawan, and on the outskirts of Mindanao." In the Tagalog Provinces, where the percentage of literacy is highest, it is stated by this author that the number able to read "is something over 70 per cent of the population above 10 years of age." This was seven years ago, and before the American system of education was fairly underway; before there were thousands of trained Filipino teachers conducting the schools in the English language. So much for the literacy of the Filipinos.

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The Hon. Newton W. Gilbert, secretary of public instruction in the Philippine Islands, at one time a Member of the House of Representatives and of this committee, makes the striking statement in his annual report for the year 1910 that "more persons in the Philippine Islands speak and write the English language than speak and write any other language or dialect. If this were true in 1910, how much larger will be the proportion of those who speak and write English in 1921? But there is more recent and much stronger testimony than this in refutation of the oft-repeated assertion that the Filipinos possess no common language and therefore are lacking in the means of communication among themselves. In a carefully prepared article in the American Year Book for 1911 it is stated that more Filipinos speak the English language than speak any other one language or dialect. This is to say, that more than one-half of the Christian inhabitants, who constitute more than nine-tenths of the total population of the Philippine Islands, have acquired the ability to speak the English language in the short space of 10 years. If this great progress has been made by the Filipinos within the last decade in the acquisition of the English language, what may not be expected of this wonderful people within the next 10 years? English-taught schools are rapidly multiplying all over the islands, and progression along all lines of education will be much more rapid in the coming than it was in the last decade. In view of the past advancement of the Philippine people in this direction, is it unreasonable to believe that when the 4th day of July, 1921, arrives English will be the common language of the Philippine Islands, and that it will afford the Philippine people that medium of communication deemed so essential to their fitness for independent existence and self-government?

Among other arguments advanced against granting the Filipinos independence is their alleged lack of homogeneity. The truth is they are more homogeneous than the people of the United States. The Director of the Philippine Census, Gen. J. P. Sanger, United States Army, says in his chapter on Population:

> As compared with the schedules of the Twelfth Census of the United States, those of the Philippine Census are somewhat simpler, the difference being due mainly to the more homogeneous character of the population of the Philippine Islands.

FILIPINO EXPERIENCE IN GOVERNMENT.

The Filipinos are not so lacking in administrative ability and in actual experience in government as has been frequently represented. There were Philippine deputies in the Spanish Cortes during portions of the first half of the nineteenth century, and in the year 1820 seventeen Filipinos sat in the Spanish Parliament. The Philippine constitution, written by Apolinario Mabini, and proclaimed by the Malolos Government in 1899, is justly regarded as a notable intellectual achievement. Among those who represented the Philippine Republic, established by Gen. Aguinaldo in 1908, in the Malolos Congress were many Filipinos of learning, great ability, and unquestioned patriotism. A number of these have held, and others are still holding positions of trust and responsibility under the present Government. Two of its members have since been commissioned to repre-

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sent the Philippine Islands in the capacity of Resident Commissioners to the United States, and one of them is to-day occupying a seat on the floor of the House of Representatives.

Dr. Schurman, the distinguished president of Cornell University, who was a member of the first Philippine Commission, and therefore qualified to speak upon the subject, wrote of the Filipinos 10 years ago:

> But whatever be done with them (the Mohammedans) the civilized and Christianized democracy of Luzon and the Visayans desire independence. They are fairly entitled to it, and united as they now are, I think they might very soon be intrusted with it. In their educated men, as thorough gentlemen as one meets in Europe or America, this democracy of 6,500,000 Christians has its foreordained leaders.

That there are many highly educated and thoroughly cultured Filipinos has not been, and will not be, seriously questioned. There are many who, having received their educations at the best schools and universities of Europe, have returned to the Philippines, and are prominent in the professional and educational life of the islands. Some of these have achieved much distinction. Of the seven members of the Supreme Court of the Philippine Islands, three are Filipinos, the Hon. Cayeteno Arellano being the chief justice. The attorney general is the Hon. Ignacio Villamor, a Filipino. Of the Philippine Commission, five of its members are Americans and four Filipinos. There are four executive departments of the insular Government, one of which, finance and justice, is presided over by Secretary Gregario Arenata. The director of labor, the Hon. Manuel Tino, is a Filipino. The codification committee is composed of three Americans and three Filipino lawyers, the chairman of which is the Hon. Manuel Araullo.

Of the 29 judges of the courts of first instance 14 are Filipinos, and practically all of the judges of the lower courts are Filipinos. The provincial boards of the Provinces are composed of a governor, a treasurer and a "third member." The governors and "third members" of the organized Provinces, with the single exception of Batanes, where the governor is appointive, are all elected by the people, and are, in every instance, Filipinos. Eleven of the treasurers are Filipinos. The fiscals, or prosecuting attorneys, although appointive, are in the main, if not invariably, Filipinos. On June 30, 1911, over 70 per cent of all the provincial officials in the Philippine Islands were Filipinos, and out of the more than 12,500 municipal and township officers, to quote from the last annual report of the executive secretary, "there are really but three American municipal officers in the self-governing municipalities and two of these were elected by popular vote."

No reference to Filipinos whose public services entitle them to a place in the history of their country, past or present, would be complete which omitted the name of the patriot, Rizal, whose glorious martyrdom stirred the hearts of Christendom and precipitated a revolution against Spain. Dr. José Rizal, by reason of his brilliant attainments and his sublime devotion to the cause of his suffering countrymen, was easily the foremost product of the Philippine people. The anniversary of the execution of this young martyr, December 30, 1896, has been made a national holiday, and throughout the Philippines his memory is universally revered.

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THE RETENTION OF THE PHILIPPINES REPUGNANT TO REPUBLICAN IDEALS AND DISASTROUS TO AMERICAN INTERESTS.

In considering the question of Philippine independence, as proposed in this bill, and in reaching the conclusions to which we have come, your committee have not by any means regarded it solely from the standpoint of the people of the Philippine Islands. On the contrary, our views are largely, if not mainly, controlled by what are believed to be the true interests of the people of the United States. The free principles upon which the American Government is founded are wholly incompatible with the idea of holding and governing against their consent any people who aspire to independence and are capaple of governing themselves. Moreover, the policy of the United States has always been against expansion beyond the seas. Such expansion as has marked the marvelous growth and progress of the United States has until very recently been over land and confined to this continent. It has embraced contiguous territory inhabited by a homogeneous people, and never land in another hemisphere, separated from us by thousands of miles of water and inhabited by an alien people differing from us in manners, customs, civilization, and race. The incidents which led up to the War with Spain had not the remotest connection with the Philippines. It was not a war of conquest. It was a war waged to free from intolerable oppression a people almost within sight of our shores and not one to bring under the dominion of the United States a people struggling for their liberties and residing upon the opposite side of the globe. The Spanish-American War was fought to free Cuba and not to enslave the Philippines; to erect a republic in the Occident, not to establish a subject colony in the Orient. From the very beginning the Filipinos never welcomed American sovereignty. They accepted it only when unable longer to resist the superior strength of the United States. The late President McKinley declared in a speech delivered in the city of Chicago that "the War with Spain was undertaken, not that the United States should increase its territory, but that oppression at our very doors should be stopped." He added, "This noble sentiment must continue to animate us and we must give to the world the full demonstration of the sincerity of our purpose." To carry "this noble sentiment" into effect is the object of this bill, and, in the opinion of this committee, it is so framed as to accomplish the purpose with honor to the American people and with just and proper regard for the future welfare and the best interests of the Filipinos.

Secondary only in importance to the high moral questions of principle and right involved in the indefinite retention of the Philippine Islands is that of their constant menace to the peace and well-being of the American people. Instead of constituting a source of strength to the United States in the event of war with a first-class naval power, they would, by reason of their geographical position, become one of great weakness. Had not the Spanish army and navy been so fully occupied with the war in Cuba the story of Dewey's engagement in Manila Bay might have been one of far different import. To fortify and defend all the principal ports of the Philippine Islands would require more money, ships, armies, munitions of war, and supplies than even a country possessing the enormous

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resources of the United States could command, and if, therefore, the purpose in holding the Philippines is merely to maintain in the Orient a base for military and naval operations, then that purpose can much more readily, and more effectively, be accomplished by retaining only the naval bases, harborage waters, and coaling stations provided for in the measure under consideration.

As to whether or not the United States could successfully defend the Philippine Islands against a first-class naval power, that is a question about which there may be honest differences of opinion. That their defense, whether ultimately successful or not, would involve the sacrifice of tens of thousands of American lives and the expenditure of vast sums of money does not admit of two opinions. That it would mean the destruction of American commerce on the high seas and the prostration of all legitimate American enterprise and business during the continuance of the war will hardly be denied. It has recently developed, however, that it is the opinion of our military experts that it would not be expedient, in the event of war with any strong naval power, for the United States to attempt to defend the Philippines.

The policy of the United States in such an event will be, we are told, to abandon the islands, and, for the time being at least, to leave them to their fate. If this is to be accepted as the policy and purpose of the United States, then it is difficult to understand of what advantage the fortification of the islands, or any one of them, can possibly be to this country in case of a foreign war. On the contrary, it would seem to be the part of wisdom to discontinue at once the expenditure of the vast sums which Congress is annually asked to appropriate for the fortification of the islands, and the maintenance there of a large body of troops. Whether in the event of war our troops are voluntarily withdrawn as a wise strategic or precautionary measure, or they are driven out or captured by a superior hostile force, the result will be the same. The fortifications which have been constructed, and those now in course of construction, will fall into the hands of the enemy, and will render more difficult the ultimate recovery of the islands should any attempt be made in that direction. If, therefore, the opinion expressed by the Chief of the Bureau of Insular Affairs is shared by other military authorities, and there is little room for doubt as to this, then a decent regard for national pride, if no higher consideration, would seem to dictate that the sooner we withdraw from the Philippine Islands, and relinquish sovereignty over them, the better it will be for the people of the United States.

THE COST OF MAINTAINING AMERICAN SOVEREIGNTY IN THE PHILIPPINES.

Estimates vary widely as to the cost to the United States of maintaining American sovereignty over the Philippine Islands. It will never be possible to compute with any degree of accuracy what the total cost has been from the date of American advent up to the present time. The late Senator Hoar declared more than 10 years ago that the United States had expended up to that time the enormous sum of $600,000,000, and his figures have never been successfully challenged. Within the past 10 years the United States have expended many millions in the islands for strictly military purposes.

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More than $10,000,000 have been expended within that period in the construction and equipment of fortifications alone.

The mean number of troops maintained by the United States in the Philippines during the fiscal year 1911 was 17,370, of whom 12,277 were Americans and 5,093 natives. It is estimated that it costs the Government $1,500 annually to maintain each soldier in the foreign service. Computed upon this basis the cost alone of maintaining the military forces in the Philippine Islands last year was over $26,000,000. It would be difficult to even estimate what part of the naval expenses of the United States should properly be chargeable to this account. It is probably safe to affirm that the sum which would be annually saved, under the conditions of peace and tranquillity which now prevail, were the United States to relinquish sovereignty over the Philippine Islands, would not fall much short, if any, of $50,000,000.

The foregoing constitutes in a measure the grounds upon which your committee base their conclusion that the inhabitants of the Philippine Islands can be safely intrusted with their independence, and that the withdrawal of American sovereignty over those islands would be mutually advantageous to the Filipinos and the people of the United States.

NEUTRALIZATION.

Fear has been expressed that if granted their independence the Philippines would become the easy prey of some land-grabbing nation, since the Filipinos possess neither a navy nor a standing army with which to defend themselves against foreign aggression. This subject need not be discussed in this report further than to say that a joint resolution has been reported from this committee requesting the President of the United States to open negotiations with such foreign governments as in his judgment should be parties to the compact, including those of Great Britain, Germany, France, Russia, Japan, and Spain, with a view to securing and safeguarding the independence of the Philippines through an international agreement. It is not believed that efforts to secure such an international agreement would be attended with any great difficulty, since little, if any, responsibility would attach to the signatory powers. The independence provided for in this bill, however, is in no respect contingent upon the successful negotiation of any treaty of neutrality. If, for any reason, failure should attend these neutralization efforts, the Philippine Islands would be in no worse position in this respect than many other countries similarly situated whose independence is not guaranteed by international convention.

Notable among the small countries whose independence, although preserved inviolate for ages, has never been guaranteed by international treaty or otherwise, may be instanced the independent monarchy of Siam. This small Kingdom of southeast Asia resembles in many respects the Philippine Islands. The population of Siam is only a little less than that of the Philippines, and it is divided among a number of tribes who inhabit different portions of the country. The Siamese number 3,000,000, or less than half of the population, whilst the remainder is made up of Laos, Chinese, Malays, Cambodians, Bermese, and many others. There are, too, many small, uncivilized tribes which inhabit the mountainous sections, several of which

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possess the characteristics of the Negritos of the Philippine Islands. There are many different dialects spoken in Siam, and yet this non-Christian country, with no standing army, has never fallen a victim to any land-grabbing nation. And although the percentage of illiteracy is far greater in Siam—it being 90 per cent—than in the Philippines, it maintains a stable as well as an independent government.

This brings us to the consideration of the various provisions and different features of the bill.

WHAT THE BILL PROPOSES.

The Philippine Government as it is at present constituted consists of a Governor General, appointed by the President of the United States, and a legislature composed of two houses, the Philippine Commission and the Philippine Assembly. The Philippine Commission is composed of nine members, all of whom are appointed by the President of the United States, and four of whom are the heads of the four executive departments of the Government. The assembly is composed of 81 members, all of whom are chosen by the qualified electors of the 31 regularly organized Provinces, the three special Provinces, and the city of Manila.

The general purpose of this bill is to establish in the Philippine Islands a provisional government more liberal and autonomous in character than that created under the provisions of the act of Congress of July 1, 1902, this temporary government to begin on the 4th day of July, 1913, and to continue for the period of eight years thereafter. In other words, there is to be a probationary period of eight years, during which the Filipinos are to be permitted to enjoy a larger measure of popular self-government than they now have. It is further provided that on and after the 4th day of July, 1921, the United States shall relinquish all rights of sovereignty over the Philippine Islands, and grant to the inhabitants thereof full and complete independence.

CONDITIONS PRECEDENT TO INDEPENDENCE.

The terms and conditions upon which Philippine independence is to be granted are (*a*) that the United States shall retain and exercise the rights of sovereignty over such lands and harborage waters as are actually necessary for naval and coaling stations and convenient terminal points for cables, these lands and harborage waters to be selected by a commission composed of the President, the Secretary of State, and the Secretary of the Navy of the United States; (*b*) that the Government of the Philippines shall assume and carry into effect the treaty obligations of the United States with Spain; (*c*) that the Government of the Philippines shall guarantee that no higher tax shall be levied upon the property or business of citizens of the United States than is levied upon that of citizens of the Philippines, and that no law shall be enacted or agreement entered into whereby the citizens of any other country are given trade advantages over those of the United States; (*d*) and that citizens of the United States shall have freedom of access to and of travel in the Philippines for business and missionary purposes, and that all property rights by whomsoever legally acquired shall be held inviolate.

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In making selection of naval and coaling stations and cable terminals it is expressly stipulated that the bay and harbor of Manila shall not be taken. The city of Manila is not only the capital but the very heart of the Philippine Islands, and it obviously would not be just to the Philippine people for the United States to retain the island of Corregidor, which commands the entrance to Manila Bay. There are other deep-water harbors equally as susceptible of fortification and defense, such for instance as Subig Bay, within 60 miles of Manila, which would meet all the requirements of the United States for naval bases and coaling stations. The United States has already expended considerable sums in the fortification of the entrance to Subig Bay, and the immense floating dry dock, *Dewey*, has been located at Olongapo in this bay.

CONGRESS OF THE PHILIPPINES.

The most important changes which this bill makes in the present government are to be found in section 6, which vests the legislative power of the Philippine Islands in a congress of the Philippines, and in those immediately following which define its powers and prescribe the method of the election of its members. This congress is to be composed of a senate and a house of representatives, each of which is to be elective.

The senate is to be composed of 38 members who are to be elected for a term of four years, one from each of the 31 regularly organized Provinces as they are now constituted, one each from the special Provinces of Mindoro and Palawan, one each from the non-Christian Provinces of Moro, Mountain, Agusan, and Nueva Vizcaya, and two from the city of Manila. The small Province of Batanes for the purpose of electing a senator is to be regarded as a part of the Province of Cagayan.

The house of representatives is to be composed of 87 members, elected biennially from the assembly districts as at present constituted, except that the Mountain, Agusan, and Nueva Vizcaya Provinces shall each elect one and the Moro Province three representatives.

Each male citizen 21 years of age or over, who has been a resident of the Philippines for one year and of the municipality in which he shall offer to vote for six months, and who either had held office under Spanish rule, or who owns property to the value of 500 pesos, or pays annual taxes to the amount of 30 pesos or more, or who is able to read and write either Spanish, English, or a native language is declared to be a qualified voter. Senators and representatives must be 25 years of age and able to read and write either Spanish or English.

From the foregoing it will be noted that the chief respects in which the Congress provided for in this bill differs from the present legislature are, first, that both of its branches are elective; second, that the inhabitants of the non-Christian Provinces are given representation in both bodies; and third, that the ability to read and write a native language is made to fulfill the educational test.

A glance at the structure of the Philippine Legislature and a cursory examination of the various and complex functions of the commission make apparent the necessity for radical changes in that body. The commission, as has been shown, is composed of appointive members, of whom one is the chief executive of the Philippine Islands. As a

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constituent part of the legislature it participates, together with the assembly, in all legislation relating to the affairs of the general government of the organized Provinces. It is, however, under the law, the sole legislative body for the non-Christian Provinces, and as such assumes the power and authority to appropriate money out of the general funds of the insular treasury for uses in non-Chirstian territory without the assent of the assembly.

The commission, therefore, not only shares with the assembly the power to legislate for the Christian people of the islands, but it exercises the exclusive power of legislating for the non-Christian tribes. It not only expends the revenues raised in the non-Christian Provinces for the exclusive benefit of the inhabitants of those Provinces, but it actually appropriates for their use and benefit such other funds as it may deem necessary out of the insular treasury, funds raised by the legislature. This is a most anomalous condition of affairs, and it is not surprising that it has given rise to much unfavorable comment and been productive of serious friction. In addition to this incongruous mixture of legislative power, four of the members of the commission are heads of executive departments and one is the Governor General. Thus it is seen that all the executive authority in the Philippines is vested in a majority of the commission. The secretary of the interior, under whose department the affairs of the non-Christian tribes are administered, is for all practical purposes their governor and legislature. The elective assembly has no share in the government of the non-Christians and without the concurrence of the commission can not legislate for the Christian population. This is a condition of affairs which, in our opinion, needs to be remedied. Experience in the Philippine Islands, as elsewhere, has shown that there should be a complete separation of the executive and legislative functions of government.

Giving representation to the people of the non-Christian Provinces marks a decided departure from the policy which has heretofore obtained in respect to them. These Provinces will be represented in the Philippine Congress, if this bill becomes law, by four senators and six representatives. This is a fair proportion of the total membership of the two houses according to population, and yet small compared to the whole number of senators and representatives. It must be borne in mind in this connection that there are quite a number of civilized Christians residing in non-Christian Provinces. Especially is this true of the Moro Province, where, as has been shown, about one-half of the population of the city of Zamboango are Christians. Moreover, there are among the Moros themselves, as well as among the Igorots, a considerable number who are classified in the census as civilized. The educational and property qualifications prescribed will, however, unquestionably restrict the electorate of the Moro Province to a greater extent than will be the case in the organized Christian Provinces, but with the spread of education there will be a steady increase in the number of those who can exercise the right of suffrage.

There has been much comment upon and many unfair deductions drawn from the fact that there were only 200,000 votes cast at the last election for assemblymen. The proportions of this vote may be easily accounted for. In the first place many of the electorate were indifferent as to the exercise of their political rights because they felt

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that, inasmuch as the assembly would be powerless to accomplish anything without the concurrence of the commission, it would be little more than a moot assembly.

But this comparatively small vote may be mainly accounted for by the fact that the educational test then applied restricted the voting to those who could read and write either the English or the Spanish language. The one respect in which this bill proposes to change the suffrage qualifications of the present law is to permit those who can read and write in any language to vote. It is obvious that this will immensely increase the electorate, and of itself result in a very heavy vote in the future.

The Philippine Assembly has more than justified the faith of those who have steadfastly maintained that the Philippine people are capable of popular self-government. There have now been two legislatures, the inaugural session of the first having been convened on October 16, 1907. The membership of the two assemblies was in the main composed of wise, patriotic, and thoroughly capable legislators. The testimony is all to the effect that the delegates devoted themselves earnestly, assiduously, and patriotically to the performance of their duties and that they showed a marked aptitude for legislative work. No small number of them displayed conspicuous ability. President Taft, who was then Secretary of War, was present at the opening of the first legislature, and in an elaborate report subsequently made by him had this to say of the assembly:

> The assembly has shown a most earnest desire, and its leaders have expressed with the utmost emphasis their intention, to labor for the material prosperity of the Philippines and to encourage the coming of capital and the development of the various plans for the improvement of the agriculture and business of the islands which have commended themselves to those in the past responsible for the government there.

When Mr. Taft wrote his report, the legislature had not been in session sufficiently long to enable him to speak as to the manner in which the assembly actually performed its legislative duties. In an article written by Dr. James Alexander Robertson, reviewing the work of the extraordinary session of the second Philippine Legislature, which appeared in the November, 1910, number of the American Political Science Review, the writer has much to say that is highly commendatory of the assembly, or popular branch, of that body. Dr. Robertson, who is the librarian of the Philippine Library, and who therefore has had exceptional opportunities for observing the assembly at close range, says of it, among other things:

> When one considers the lack of opportunity that the Filipinos have had for representative government, this extraordinary session marks an epoch in the history of the Philippine Islands. This remark is no idle panegyric, but is based on actual contact and conversation with various members of the assembly, as well as attendance at many of the open meetings of the assembly.
>
> The assembly just closed was remarkable in several respects—for the discipline exercised by the speaker; for the great earnestness displayed by the representatives in general; for their dignity of bearing; and for their freedom from jingoism; and, outwardly at least, from party passion—outwardly, I say, because considerable party passion and personal feeling did at times creep into committee and secret meetings. In general, it may be said that this assembly, in its quietness and dignity of action, has established a precedent that can be well taken as a form for future sessions.

Among the delegates who have shown high order of ability may be mentioned Señor Sergio Osmeña, the speaker or presiding officer, and Señor Vicente Singson. These two Filipino statesmen, the two most

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striking figures in the assembly, are the leaders, respectively, of the Nacionalista and Progresista parties. Of Speaker Osmeña Mr. Taft said in the report hereinbefore referred to:

> He is a young man, not 30, but of great ability, shrewdness, high ideals, and yet very practical in his methods of dealing with men and things. The assembly could have done nothing which indicated its good sense so strongly as the selection of Señor Osmeña as its presiding officer.

There are many who regard Señor Pablo Ocampo, at one time Resident Commissioner to the United States, now a delegate from the city of Manila, as the equal in ability of either Osmeña or Singson. The names of many other delegates possessing superior intelligence and high ideals might be mentioned, such, for instance, as Gregorio Nieva, Jaime C. de Veyra, Alberto Barretto, Thomas G. Del Rosario, Mariano Ponce, and Macario Adriatico, the last named being the representative of the partially organized Province of Mindoro.

A people who have made so manifest their capacity for the performance of the legislative functions of popular government as the Philippine people have done in the past five years, as is shown in the history of the popular branch of the Philippine Legislature, can, it is believed, be safely intrusted with the exercise of full legislative power. There is no good reason for believing that the same discriminating judgment will not be shown in the future by the Philippine people in the election of the upper house of a Philippine Congress as has been demonstrated in the past in the selection of the membership of the present popular assembly.

The first general election for senators and representatives of the Philippine Congress is not to take place until the year 1913, and the bill expressly provides that during the existence of the eight-year provisional government the President of the United States shall have absolute veto power over any bill which it may pass. It further provides that the Congress of the United States may during that period annul any bill passed by the Philippine Congress. Moreover, during this period the President of the Philippines is also given the right to exercise the veto power over all legislation enacted by the Philippine Congress.

THE CHIEF EXECUTIVE.

The bill provides that the executive power of the Philippines for a period of eight years, commencing on the 4th day of July, 1913, shall be vested in a president to be appointed by the President of the United States, by and with the consent of the Senate of the United States, who shall hold his office for a term of four years. During this period of eight years the power of the president of the Philippines to make treaties with the concurrence of two-thirds of the Senate of the Philippines, will be subject to the approval of the President and two-thirds of the members of the Senate of the United States. After the 4th day of July, 1921, the president of the Philippines is to be elected by the qualified voters thereof.

EXECUTIVE OFFICES.

In addition to the appointment of secretaries of the departments of the interior, commerce and police, finance and justice and public instruction, as those departments are at present constituted, the

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president of the Philippines is authorized to appoint a secretary of state and a secretary of war and navy, except that for the period of eight years succeeding the 4th day of July, 1913, the President of the United States, by and with the advice and consent of the Senate thereof, shall appoint the secretary of state. As the duties of the secretary of state will concern the foreign relations of the Philippines, and the exercise thereof might in some way involve the United States during the existence of the provisional government, it was deemed wise that this official should be appointed by the President of the United States during that period.

The sections of the bill to which attention has thus been specifically directed, embrace what are regarded as its most important and far-reaching features. The remaining sections do not involve any radical changes in the existing organic law and relate more or less to matters of detail.

In conclusion, it is only necessary to add that, in the opinion of this committee, if this bill as amended is enacted into law, it will enable the Philippine people to set up a stable and enduring government of their own. The act by which the United States shall forever relinquish sovereignty over the Philippine Islands and give to their inhabitants an independent government republican in form will constitute a glorious page in the history of the American Republic.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 606, Part 2.

PHILIPPINE INDEPENDENCE.

APRIL 29, 1912.—Ordered to be printed.

Mr. OLMSTED, from the Committee on Insular Affairs, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 22143.]

Whether the acquisition of the Philippine Islands was necessary or unnecessary, wise or unwise, need not now be discussed. Under the treaty with Spain they came into our possession, and we became responsible to the inhabitants thereof and to the world for the maintenance of peace and good order therein and the advancement of prosperity.

The bill (H. R. 22143) providing for Philippine independence would, if enacted into law, increase rather than lessen our responsibility, while lessening our ability to perform our moral and just obligations.

The inhabitants of the Philippine Islands do not constitute a homogeneous people. They are composed of many different tribes, some styled as civilized and some admittedly wholly wild. There are some 15 or 20 different languages or dialects spoken in the islands. In many instances those who speak one dialect can not speak or understand any other. Only about 10 per cent of all the people can read and write in any language or dialect, and less than 3 per cent possess what we would call a fair common-school education. Of the entire 8,000,000, less than 2½ per cent, or about 200,000, have been found qualified to vote under existing laws. A few of these, chiefly among the Tagalogs, are very well educated. A smaller number are ambitious to govern, and they have no difficulty in stirring up a very considerable popular sentiment in favor of entire independence. There are, on the other hand, many who privately, if not publicly, look with fear and disfavor upon such a prospect. Spain was not able, with all her power, to maintain decent government, and turned the islands over to us in a very disordered condition. It required some time, no small expenditure of money, and, unhappily, some sacrifice of human life, to restore order; but it was finally restored.

Under American rule order has been brought out of chaos; the people of the islands have enjoyed better government and more of

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self-government than ever before. Life, liberty, and property have never been so fully protected as at the present time.

The wild and uncivilized inhabitants of the islands outnumber, three to one, those who would be qualified to vote under the provisions of the pending bill. These uncivilized and wild peoples in the non-Christian Provinces are governed by the Philippine Commission appointed by the President of the United States. They are not within the jurisdiction of the Philippine Assembly, which legislates for the Christian Provinces. They are satisfied to be ruled by the United States, but would fight at the drop of the hat if turned over to the government of those with whom they were at war at the time of the American occupation.

The first governor of the Philippines was William Howard Taft. His administration was eminently successful and he became very popular with the inhabitants. Later, as Secretary of War, he had a certain supervision of their affairs. His long residence there, his subsequent visits, his association with the people of all classes and of all parts of the islands, and his familiarity with the Spanish language, all join to make him the best qualified American to speak upon the subject. In a special message, which, as Secretary of War, he made to President Roosevelt in 1908, he said:

Any attempt to fix the time in which complete self-government may be conferred upon the Filipinos in their own interest is, I think, most unwise. The key to the whole policy, outlined by President McKinley and adopted by Congress, was that of the education of the masses of the people and the leading them out of the dense ignorance in which they are now, with a view to enabling them intelligently to exercise the force of public opinion without which a popular self-government is impossible.

It seems to me reasonable to say that a condition can not be reached until at least one generation shall have been subjected to the process of primary and industrial education, and that when it is considered that the people are divided into groups speaking from 10 to 15 different dialects, and that they must acquire a common medium of communication, and that one of the civilized languages, it is not unreasonable to extend the necessary period beyond a generation. By that time English will be the language of the islands, and we can be reasonably certain that a great majority of those living there will not only speak and read and write English, but will be affected by the knowledge of free institutions, and will be able to understand their rights as members of the community and to seek to enforce them against the pernicious system of caciquism and local bossism, which I have attempted in this report to describe.

But it is said that a great majority of the people desire immediate independence. I am not prepared to say that if the real wish of the majority of all the people, men, women, and children, educated and uneducated, were to be obtained, there would not be a very large majority in favor of immediate independence. It would not, however, be an intelligent judgment based on a knowledge of what independence means, of what its responsibilities are, or of what popular government in its essence is. But the mere fact that a majority of all the people are in favor of immediate independence is not a reason why that should be granted, if we assume at all the correctness of the statement, which impartial observers can not but fail to acquiesce in, to wit, that the Filipinos are not now fit for self-government.

The policy of the United States is not to establish an oligarchy, but a popular self-government in the Philippines. * * * The presence of the Americans in the islands is essential to the due development of the lower classes and the preservation of their rights.

And again, in the same report, Secretary Taft said:

The educated Filipino has an attractive personality. His mind is quick, his sense of humor fine, his artistic sense acute and active; he has a poetic imagination; he is courteous in the highest degree; he is brave; he is generous; his mind has been given by his education a touch of the scholastic logicism; he is a musician; he is oratorical by nature.

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The educated Filipino is an aristocrat by Spanish association. He prefers that his children should not be educated at the public schools, and this accounts for the large private schools which the religious orders, and at least one Filipino association, are able to maintain. In arguing that the Philippines are entirely fit for self-government now, a committee of educated Filipinos once filed with the civil governor a written brief, in which it was set forth that the number of "illustrados" in the islands was double that of the offices—central, provincial, and municipal—and therefore the country afforded two "shifts" of persons competent to run the government. This, it was said, made clear the possibility of a good government if independence was granted. The ignorance of the remainder of the people, admitted to be dense, made no difference. I cite this to show of how little importance an intelligent public opinion or an educated constituency is regarded in the community and government, which many of the educated Filipinos look forward to as a result of independence.

In the special message to Congress presenting that report, President Roosevelt said:

I transmit herewith the report of Secretary Taft upon his recent trip to the Philippines. I heartily concur in the recommendations he makes. * * * No great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accident of war to its hands. If we had followed the advice of the misguided persons who wished us to turn the islands loose and let them suffer whatever fate might befall them, they would have already passed through a period of complete and bloody chaos, and would now undoubtedly be the possession of some other power which there is every reason to believe would not have done as we have done. * * * Save only our attitude toward Cuba, I question whether there is a brighter page in the annals of international dealing between the strong and the weak than the page which tells us of our doings in the Philippines. I call especial attention to the admirably clear showing made by Secretary Taft of the fact that it would have been equally ruinous if we had yielded to the desires of those who wished us to go faster in the direction of giving the Filipinos self-government, and if we had followed the policy advocated by others, who desired us simply to rule the islands without any thought at all of fitting them for self-government. * * * It will probably be a generation, it may even be longer, before this point is reached; but it is most gratifying that such substantial progress toward this as a goal has already been accomplished. We desire that it be reached at as early a date as possible for the sake of the Filipinos and for our own sake. But improperly to endeavor to hurry the time will probably mean that the goal will not be attained at all.

At a still later period Hon. J. M. Dickinson, Secretary of War, having made an extended visit to the Philippines, in a special report to the President dated November 23, 1910, spoke of the attempt by politicians, through the press and in other ways, to stimulate a general demand for immediate independence. He said:

While, as stated, these are the only views publicly expressed, I became convinced from reliable evidence that many of the most substantial men, while not openly opposing the demands publicly voiced, would regard such a consummation with consternation. They realize that the Government would fall into the hands of a few who would dominate the masses; that the administration, even without outside interference, could not be successfully carried on; that there would be internal dissensions and probably civil war; and that if the United States did not interfere they would fall an easy prey to some foreign power.

In his last annual message to Congress, President Roosevelt said:

The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. But it is well for them (and well also for those Americans who, during the past decade, have done so much damage to the Filipinos by agitation for an im-

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mediate independence for which they were totally unfit) to remember that self-government depends, and must depend, upon the Filipinos themselves. All we can do is to give them the opportunity to develop the capacity for self-government. If we had followed the advice of the foolish doctrinaires who wished us at any time during the last 10 years to turn the Filipino people adrift, we should have shirked the plainest possible duty and have inflicted a lasting wrong upon the Filipino people. We have acted in exactly the opposite spirit. We have given the Filipinos constitutional government; a government based upon justice; and we have shown that we have governed them for their good and not for our aggrandizement. At the present time, as during the past 10 years, the inexorable logic of fact shows that this government must be supplied by us and not by them. We must be wise and generous; we must help the Filipinos to master the difficult art of self-control, which is simply another name for self-government. But we can not give them self-government save in the sense of governing them so that gradually they may, if they are able, learn to govern themselves. Under the present system of just laws and sympathetic administration, we have every reason to believe that they are gradually acquiring the character which lies at the basis of self-government, and for which, if it be lacking, no system of laws, no paper constitution, will in anywise serve as a substitute. Our people in the Philippines have achieved what may legitimately be called a marvelous success in giving to them a government which marks on the part of those in authority both the necessary understanding of the people and the necessary purpose to serve them disinterestedly and in good faith. I trust that within a generation the time will arrive when the Filipinos can decide for themselves whether it is well for them to become independent or to continue under the protection of a strong and disinterested power able to guarantee to the islands order at home and protection from foreign invasion. But no one can prophesy the exact date when it will be wise to consider independence as a fixed and definite policy. It would be worse than folly to try to set down such a date in advance, for it must depend upon the way in which the Filipino people themselves develop the power of self-mastery.

The pending bill provides that—

the United States guarantee to the Philippines their independence, and shall protect them against invasion, and, on application of the Congress thereof, against domestic violence for the period of eight years.

The Moro Province is non-Christian and uncivilized, although it has a few intelligent people. They do not consider themselves as Filipinos, and were, when we took the Islands, in a state of war. They are now well satisfied to be governed by the United States, but wholly unwilling to be governed from Manila. When Secretary Dickinson was in that Province in 1910, he visited Zamboanga, where thousands of Moros came in to greet him. The following are the speeches of a few of the Moro spokesmen, as interpreted into both English and Spanish and stenographically reported:

Datu Mandi spoke as follows, his remarks being interpreted in English by Mr. Edward Schuck:

I am here, El Raja Mura Mundi, representing the Moros. Here they are, the whole crowd of them, come to honor the Secretary of War. As I look about I see far more Moros than the Filipino contingent, and if that is so, that is the reason it is called the Moro Province. [Tremendous applause from the Moros.]

When first the Americans came here, from the very beginning, whatever they asked me to do I did. I was loyal to them ever. Now I have heard a rumor that we Moros are in the hands of the Filipinos.

In the Spanish times I was a datu (when the Spanish left this became a republic). Then I saw and found out that things did not go well. When a man had two measures of rice one was taken away from him; when a man had two head of cattle one was taken away from him. [Applause by the Moros.]

If the American Government does not want the Moro Province any more they should give it back to us. It is a Moro Province. It belongs to us. [Tremendous applause by the Moros.]

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Datu Sacaluran spoke as follows:

I am an old man. I do not want any Moro trouble. But if it should come to that, that we shall be given over to the Filipinos, I still would fight. [Applause.]

Ulankaya Ujaton said:

I am not a civilized man, but I have learned that slavery, killing, and stealing is a bad thing. We do it no more. But, if that it should be that we shall be given over to another race, we had better all be hanged. [Applause.]

Nadji Nungnui spoke as follows:

I want to tell the Secretary of War that I am a Samal. I come from the Samal race. The Samal race—in former days there was not a worse race than the Samal race; and that was in the olden days. Ever since the Spanish times up to now we have learned different.

The Secretary of War must look the matter in the face. We are a different race; we have a different religion; we are Mohammedans. And if we should be given over to the Filipinos, how much more would they treat us badly, when they treated even the Spanish badly, who were their own mothers and their own fathers in generation? How did they treat them? Think about it! Think twice! We far prefer to be in the hands of the Americans, who are father and mother to us now, than to be turned over to another people. [Applause.]

Secretary Dickinson was also presented with a set of resolutions, setting forth that "The Moro Province is inhabited by many races and different tribes, with differences in religion, customs, and habits, with a varying degree of civilization," and that "We have the best form of government possible under our existing conditions, and we want no changes at the present time."

What would be the condition of the United States to-day if it were under guarantee to protect Mexico from domestic violence as well as against foreign invasion? Can it be doubted that if the Philippines were set adrift the present conditions in Mexico would be calm and peaceful as compared with those which might soon be expected in those islands? The Government of the United States could not, under any circumstances, sit idly by and see those tribes and peoples fighting among each other; nor could it, either before or after the expiration of the eight years' period, permit any other power to make war upon and seize them.

Our cares and responsibilities would be vastly increased by the passage of this bill, while our ability to meet them would be greatly impaired.

The expense to the United States of preserving peace and order under an attempted government by the Filipinos themselves would be greater than under our present control.

There seems to be an impression that the government of the Philippines is imposing a vast financial burden and expense upon the United States. That is far from true.

The government of those islands is now entirely self-supporting and its finances in good condition.

The Philippines do not at present impose any expense upon the United States, except in the excess cost of maintaining a portion of the Army there over what it would cost to keep it at home.

The expense of transportation does, of course, add something to the cost of the Army. On the other hand, the largely increased market afforded by the Philippines for the products of our farms and factories is of a great deal of value to us.

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The Philippines are rich and fertile, but their agriculture is of the crudest possible kind. If it were our intention to hold and develop them, they could be made extremely valuable possessions; but, as expressed by Presidents McKinley, Roosevelt, and Taft, it is our policy to help them up to a point where they are fitted for self-government.

It would be a cowardly shirking of our duty, a disgrace to the American people, and an injury to the Filipinos to give them self-government before they are fitted for it.

M. E. Olmsted.
E. D. Crumpacker.
Charles E. Fuller.
E. H. Hubbard.
Charles R. Davis.
E. A. Morse.
H. M. Towner.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 607.

BRIDGE ACROSS MISSOURI RIVER, N. DAK.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany S. 6160.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 6160) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River in the State of North Dakota, having considered the same, report thereon with a recommendation that it pass.

The following is the report of the Senate Committee on Commerce:

[Senate Report No. 627, Sixty-second Congress, second session.]

The Committee on Commerce, to whom was referred the bill (S. 6160) to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River in the State of North Dakota, having considered the same, report thereon with a recommendation that it pass without amendment.

The bill has the approval of the War Department, as will appear by the following communication from that department favoring passage of this bill:

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 13, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (S. 6160, 62d Cong., 2d sess.), to authorize the Great Northern Railway Co. to construct a bridge across the Missouri River in the State of North Dakota, is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned, I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 15, 1912.*

Respectfully returned to the chairman Committee on Commerce, United States Senate, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 608.

BRIDGE ACROSS YELLOWSTONE RIVER, DAWSON COUNTY, MONT.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany S. 6161.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 6161) to authorize the Great Northern Railway Co. to construct a bridge across the Yellowstone River, in the county of Dawson, State of Montana, having considered the same, report thereon with amendment and as so amended recommend that it pass.

Amend the bill as follows:

On page 1, lines 7, 8, 9, 10, and 11, strike out the words "in the county of Dawson and State of Montana, at a point suitable to the interests of navigation and not farther south than the south line of township twenty-one north of the Montana principal meridian," and insert in lieu thereof the words "at a point suitable to the interests of navigation, to be selected by the said company and approved by the Secretary of War, either in Mackenzie County, North Dakota, or Dawson County, Montana."

The following is the report of the Senate Committee on Commerce:

[Senate Report No. 625, Sixty-second Congress, second session.]

The Committee on Commerce, to whom was referred the bill (S. 6161) to authorize the Great Northern Railway Co. to construct a bridge across the Yellowstone River, in the county of Dawson, State of Montana, having considered the same, report thereon with a recommendation that it pass without amendment.

The bill has the approval of the War Department, as will appear by the following communication from that department favoring passage of this bill:

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 13, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (S. 6161, 62d Cong., 2d sess.), to authorize the Great Northern Railway Co. to construct a bridge across the Yellowstone River, in the county of

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Dawson, State of Montana, is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned, I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 15, 1912.*

Respectfully returned to the chairman Committee on Commerce, United States Senate, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 609.

DAM ACROSS SAVANNAH RIVER.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. RICHARDSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 22092.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22092) to extend the time of the Twin City Power Co. for the completion of a dam across the Savannah River, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, which suggested the following amendment, and which amendment was not accepted by the committee:

On page 2, line 2, after the word "two," strike out the period, insert a colon, and add the words:

Provided further, That any dam built under the said act shall be constructed, maintained, and operated subject to and in all respects in accordance with the provisions of the act approved June twenty-third, nineteen hundred and ten, entitled "An act to amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June twenty-first, nineteen hundred and six," and no dam shall be constructed except in conformity to plans which may be hereafter approved by the Secretary of War and Chief of Engineers.

The report from the War Department is herewith attached and made a part of this report:

There is attached and made a part of this report letter from Hon. Thomas W. Hardwick, the author of the bill, and letter from Judge E. H. Callaway, counsel for the Twin City Power Co.

[Second indorsement.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 23, 1912.

1. Respectfully returned to the Secretary of War.

2. By an act approved February 29, 1908, the Twin City Power Co. was authorized to construct three dams across Savannah River, one near the mouth of Dortons Creek, one at or near the southern end of Prices Island, and one at what is known as Crouchs

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Bluff, all in the State of South Carolina. Under date of February 20, 1909, general plans, covering the location, height, and type of the dam proposed to be built at Prices Island, submitted by the company, were approved by the department. It is understood that the company's project has been modified so that of the two dams first mentioned only one is to be built, the time for the completion of which, as fixed by the statute, will expire February 28, 1913.

3. The object of the accompanying bill (H. R. 22092, 62d Cong., 2d sess.) is to secure the consent of Congress to the carrying out of the company's project for the development of water power by the construction of one dam instead of two, and also to an extension of the period for completing construction to February 29, 1916.

4. With certain amendments to the bill, which I have indicated in red thereon, it is believed that the measure will amply provide for the protection of navigation interests, and so far as those interests are concerned I know of no objection to its passage by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 25, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army, and to the accompanying copy of amended bill referred to.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COINAGE, WEIGHTS, AND MEASURES,
Washington, D. C., March 23, 1912.

Hon. W. C. ADAMSON,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR SIR: Inclosed you will find a letter addressed to me by Judge E. H. Calloway, attorney for the Twin City Power Co., in which letter full explanation is given of the reason for the necessity of the bill recently introduced by me on this subject.

I inclose you Judge Calloway's letter, so that you may understand exactly what the facts are in connection with this matter.

Very truly, yours, THOMAS W. HARDWICK.

WASHINGTON, D. C., *March 20, 1912.*

Hon. THOMAS W. HARDWICK,
House of Representatives.

MY DEAR MR. HARDWICK: The Twin City Power Co. owns about 7,000 acres of land, extending from Kilgrist Ferry, below Prices Island, on both sides of the Savannah River, and extending up the river for a distance of 14 miles, and embraces falls in the river of more than 110 feet.

The purchasing and development of this property has cost over a half million dollars up to the present time.

Since the franchise to construct the dam was granted by Congress, in February, 1908, there has been spent by the company in the purchase of lands, rights of way, building a railroad to the dam site, sawing lumber, clearing land, and other work, amounting to more than $250,000.

Of this expenditure the following items may be named:

Thirty-five thousand dollars on excavating dam site and building 2½ miles of railroad to the dam site.

Three thousand dollars in cutting lumber and removing timber from the reservoir site.

Four thousand dollars in the purchase of rights of way for transmission lines.

Two hundred thousand dollars for lands.

Plans for the construction of a 60-foot reenforced concrete dam, to be located at the lower end of Prices Island, prepared under the supervision of Prof. Burr, of Columbia University (one of the consulting engineers of the United States Government), have already been submitted and received the approval of the War Department.

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At the time the franchise was granted in 1908 a contract for the development of this property had been made with an engineering company and this contract did not expire until July, 1909.

The company holding the contract became more or less embarrassed in the panic of 1907 and was unable to carry out its contract.

After the expiration of the contract efforts on the part of the Twin City Power Co. to finance the construction and development of its properties by building two 30-foot dams, disclosed the fact that, owing to the uncertain stages of the water in the upper Savannah River—which were always either very high or very low—it was found that two 30-foot dams were considered impracticable and would not be a profitable or paying development.

Therefore, under the advice of the ablest hydraulic engineers, the plans were changed so as to comprise one 60-foot dam, to be located at the lower end of Prices Island, instead of two 30-foot dams located 6 miles apart as originally contemplated.

This radical change in plans required considerable time to perfect the plans and make a new contract.

More recently, for the reasons stated above, the plans have been again modified so as to construct a 70-foot dam for the development of this water power, and revised plans for this development have been submitted to the War Department.

The Twin City Power Co. now have a contract with the Amburson Hydraulic Construction Co. for the construction and financing of the development of its water power by the building of one 70-foot dam to cover the entire development.

Very truly, yours,

E. H. CALLOWAY.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 610.

HALF-FARE RATES TO PUBLIC-SCHOOL CHILDREN.

APRIL 26 (calendar day, APRIL 27), 1912.—Referred to the House Calendar and ordered to be printed.

Mr. DYER, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 16811.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 16811) to require street railway companies operating in or within the District of Columbia to grant one-half fare rates to public-school pupils, report the same back to the House with the recommendation that it do pass with the following amendments, viz:

Amend line 4, page 1, by adding after the word "railway" the words "and coach."

Amend line 5, page 1, by adding after the word "pupils" the following words: "between and including the ages of six and twenty years."

Amend line 7, page 1, by adding after the word "school" the following words: "during school days and between the hours of 7.30 to 9 a. m. and from 2 to 4 p. m."; also same line, after the word "of," amend by striking out the words "one-half the fare charged or to be charged for adult passengers," and insert in lieu thereof the words "two and one-half cents for each fare."

Amend line 10, page 1, by adding after the word "railway" the words "or coach."

Amend line 12, page 1, by striking out the word "forty-eight," and insert in lieu thereof the words "forty, said books to be issued to and in the name of the pupil applying for same, said books not to be transferable."

Amend line 3, page 2, by adding after the word "any" the word "person" and a comma.

Amend lines 6 and 7, page 2, by striking out the words "less than fifty nor."

Amend line 4, page 2, by adding after the word "railway" the words "or coach."

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In reporting H. R. 16811 the committee regards it as much-needed legislation and legislation that will not be found to be unfair so far as the street railway and coach companies are concerned. Its enactment will put this city abreast of many and in advance of some cities that are striving for progress in education.

The problem of bringing the child to the fountain of public education is in process of solving by different methods in different localities. In the Middle West, where population is sparse and where railways are few, the State has become a common carrier for educational purposes and actually carries pupils to and from the centralized county high schools by a public coach. Where, however, interurban lines have multiplied, the community has shifted the duty of transporting pupils to the railway and has frequently required the granting of special rates. This is the case, for example, in northeastern Ohio.

The most suggestive precedents with respect to the relations of the pupil to the railroad come from New England, where educational systems have been in existence for a relatively long period and where tendencies have had time to become practices. In Bridgeport the street railway corporation sells a 40-ride ticket to pupils for $1. The concession seems to have been made purely as a matter of business, without legislative compulsion. In Maine the Lewiston, Augusta & Waterville Street Railway sells a book of 100 tickets for $2.50. In Bangor the half rate also prevails.

But aside from these city precedents the most important and significant condition is that found in Vermont and Massachusetts, both of which by statute provide that half fare only shall be charged by street railway companies to children attending public schools. The Massachusetts statute, in fact, covers private-school attendance also. Its exact provisions are as follows:

TRANSPORTATION BY STREET AND ELEVATED RAILWAY COMPANIES OF PUPILS OF THE PUBLIC DAY AND PUBLIC EVENING SCHOOLS AND PRIVATE SCHOOLS.

Chapter 530, acts of 1908, provides as follows:

SECTION 1. The rates of fare charged by street or elevated railway companies for the transportation of pupils of the public day schools or public evening schools or private schools between a given point, from or to which it is necessary for them to ride in traveling to or from the schoolhouses in which they attend school and their homes, whether such schoolhouses are located in the city or town in which the pupils reside or in another city or town, shall not exceed one-half the regular fare charged by such street or elevated railway company for the transportation of other passengers between said points, and tickets for the transportation of pupils as aforesaid, good during the days or evenings on which said schools are in session, shall be sold by said companies in lots of 10 each. A railway company which violates the provisions of this section shall forfeit $25 for each offense.

Some communities have been wise enough to secure half fare for pupils by a provision in the franchise of the public carrier. This is true in the case of the Carolina Power & Light Co., which operates in Raleigh, N. C.

Among Mississippi Valley cities, Little Rock, Ark.; Lincoln, Nebr.; Omaha, Nebr.; and Springfield, Ill., have the half-fare plan in operation. The Omaha & Council Bluffs Street Railway Co. excepts students of law, medical, or dental colleges, and grants the half rate to children attending grade and high schools only. In Springfield the reduction was made by the officials of the company of their own accord, "as a matter of sentiment," as the railroad manager expressed himself.

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Even in the extreme West, where prices in general are high, a fairly large number of cities have secured reduced rates, although two-thirds fare instead of one-half fare prevails in some instances.

The Helena, Mont., street car company sells 10 tickets for 25 cents. Salt Lake and Ogden, in Utah, have special student rates. Olympia, Salem, and Tacoma represent the Pacific coast in the effort to popularize education by cheapening transportation.

The nearest and most significant example for Washington in the matter of street railway rates is found in Richmond, Va., where a half-fare rate exists, the company selling books of 20 tickets for 50 cents or a 40-ticket book for $1. The following form shows the simple application blank, which the public-school principal signs:

Certificate No. .....
Book issued, No. .....

VIRGINIA RAILWAY & POWER CO.

Certificate to secure transportation at reduced rates on the street cars for the pupils of the schools of the city of Richmond.

The undersigned certifies that ....., residing at ....., is regularly enrolled as a pupil in ..... School for the session 19—19—. Date, ... 19—.

.....
Principal.

For renewal of ticket book, old cover must be returned with a certificate.

When the tickets are used, the pupil gets a new book on presenting the old one with a certificate filled out by the principal. The street car companies designate certain drug stores, as well as their offices, where ticket books can be secured.

In the city of Washington the street railway companies have been liberally treated as to charters and privileges. They are not harassed by special taxation, menaced by politicians who seek personal gain at their expense, or overburdened by legislative restrictions. Why should they not follow the example of Hartford and Springfield and voluntarily establish a school rate as a return to the public for benefits received?

Furthermore, the character of the school travel makes it easy to handle. The school child uses the car for return from school at a dull time of day for the companies. The going child would travel, in large part, away from departmental and business centers and would utilize otherwise empty cars. Finally, an increase in the number of riders, and especially in the number of short hauls, would, in large degree, compensate the companies for a reduction of fare.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 611.

JUDICIAL PROCEDURE OF UNITED STATES COURTS.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. DAVIS of West Virginia, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 16461.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 16461) to regulate the judicial procedure of the courts of the United States, report the same back with certain amendments and with the recommendation that the bill as amended do pass.

The several amendments as reported are as follows:

1. On page 1, line 8, insert after the word "judgment" the words "decree or order," so that the line as amended will read "that no judgment, decree, or order shall be set aside, etc."

2. On page 1, line 9, after the word "court," strike out the word "in" and insert in lieu thereof the word "of," so that the bill as amended will read "courts of the United States" instead of "courts in the United States."

3. On pages 1 and 2 of the bill, strike out all after the word "criminal," on page 1, line 10, down to and including the word "parties," on page 2, line 2, and insert in lieu thereof the words "on account of any error which does not injuriously affect the substantial rights of the party complaining."

4. On page 2, line 3, after the word "may," insert the words "in his discretion."

The amendments suggested are designed to perfect the form of the bill without in any essential particular affecting its purpose.

The bill, as originally drawn, was prepared by a committee of the American Bar Association, by which also it has been under discussion for five years. In an amended form it passed the House of Representatives unanimously on the 6th day of February, 1911, and in the message of the President sent to Congress on December 21, 1911, we find the following recommendation:

The American Bar Association has recommended to Congress several bills expediting procedure, one of which has already passed the House unanimously, February 6, 1911. This directs that no judgment should be set aside or reversed or new trial granted,

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unless it appears to the court, after an examination of the entire cause, that the error complained of has injuriously affected the substantial rights of the parties, and also provides for the submission of issues of fact to a jury, reserving questions of law for subsequent argument and decision. I hope this bill will pass the Senate and become law, for it will simplify the procedure at law.

Similar legislation to that now proposed has been adopted in Illinois, Kansas, Ohio, and Wisconsin and by constitutional amendment in California; has passed both houses of the Legislature of the State of New York, and on the 2d day of April, 1912, was before the governor of that State for his signature.

No doubt a similar rule has been applied without express statutory mandate in the courts of other States. The necessity for Federal legislation on this subject is well illustrated by a comparison of the language of the Supreme Court of the United States in the case of Railroad Company *v.* O'Reilly (158 U. S., 334) and its language in the case of Cunningham *v.* Springer (204 U. S., 647). In the former of these cases it is said:

> While an appellate court will not disturb a judgment for an immaterial error, yet it should appear beyond a doubt that the error complained of did not and could not have prejudiced the rights of the party duly objecting.

On the other hand, in the latter case, it is said:

> These three illustrations * * * illustrate the importance of a strict application of the principle that the excepting party should make it manifest that an error prejudicial to him has occurred in the trial in order to justify an appellate court in disturbing the verdict.

In other words, in the first of these cases the Supreme Court holds that an error is presumed to be prejudicial until the contrary appears, and in the second, that an error is presumed to be harmless until the contrary is made to appear. It is the purpose of the first section of the present bill to enact in so far as the appellate courts are concerned that in the consideration in an appellate court of a writ of error or an appeal judgment shall be rendered upon the merits without permitting reversals for technical defects in the procedure below, and without presuming that any error which may appear has been of necessity prejudicial to the complaining party.

The second clause of the bill is drawn so as to provide a method by which in a proper case a verdict on questions of fact may be taken on the trial, reserving questions of law for more deliberate consideration either by the trial judge or in the appellate court. It authorizes the court to direct judgment to be entered upon the verdict or upon the point reserved, if conclusive, as its judgment upon such point reserved may require. This amendment gives additional value to the trial by jury. It will prevent the delay, expense, and consequent injustice caused by new trials upon every issue when the judgment of the appellate court differs from that of the trial court upon some point of law.

To quote from the opinion of the New York Court of Appeals in a recent case:

> It frequently happens that cases appear and reappear in this court after three or four trials where the plaintiff on every trial has changed his testimony in order to meet the varying fortunes of the case upon appeal.

Extreme instances of such delay may be found in the Hillmon case (145 U. S., 285; 188 U. S., 208), where the second judgment of reversal was 23 years after the trial began; and Springer *v.* Westcott (166

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N. Y., 117), where there were four appeals and the recovery was $900 for the contents of a trunk.

The common-law practice of demurrers to the evidence and judgments non obstante veredicto embody the same idea with some limitations, while the judicature act of England carries the same principle and has so justified itself in practice that in that country final judgment is rendered on appeal in 90 per cent of the cases in which the judgment below is reversed, and in only 10 per cent of the reversals is a new trial ordered.

Your committee believe that the reforms embodied in this bill are wise and consonant with the promise of Magna Charta, that justice shall be denied or delayed to no man and that the administration of justice shall not be so cumbrous, dilatory, and consequently expensive that it shall be obtainable only by the rich.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 612.

REGULATION OF INJUNCTIONS.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. CLAYTON, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 23635.]

The Committee on the Judiciary, having had under consideration H. R. 23635, to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, report the same back with the recommendation that the bill do pass.

The too ready issuance of injunctions or the issuance without proper precautions or safeguards has been called to the attention of the Congress session after session for many years. The bill now reported seeks to remedy the evils complained of by legislation directed to those specific matters which have given rise to most criticism. These matters are so segregated in various sections of the bill that they may be separately discussed.

I.

The first section of the bill amends section 263 of the judicial code which relates to two distinct steps in the procedure, namely, notice and security. But the amended section relates only to the notice, leaving the matter of security to be dealt with by a new section 266a.

FORMER STATUTES.

In order to fully understand the subject of notice in injunction cases it is necessary to give an historical résumé of the subject. In the judiciary act of 1789 which was passed during the first session of that year, Congress having created the different courts according to the scheme outlined by Chief Justice Ellsworth, conferred upon the courts power to issue all writs, including writs of ne exeat (a form

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of injunction), according to legal usages and practice. In 1793, however, there was a revision of that statute, and among other things the same powers, substantially, were conferred upon the judges as before; but at the end of the section authorizing the issuance of injunctions, was this language: "No injunction shall be issued in any case without reasonable previous notice to the adverse party or his attorney."

The law stood thus until the general revision of 1873, during which period the law expressly required reasonable notice to be given in all cases. But the will of Congress as thus expressed was completely thwarted and the statute nullified by the peculiar construction placed upon it by the courts. The question frequently arose. The courts got around it in various ways, but usually by holding that it did not apply to a case of threatened irreparable injury, notwithstanding that its language was broad and sweeping, plainly covering all cases. Another form of expression often used is found in Ex parte Poultney (4 Peters C. C. C., 472):

> Every court of equity possesses the power to mold its rules in relation to the time of appearing and answering so as to prevent the rule from working injustice, and it is not only in the power of the court, but it is its duty to exercise a sound discretion upon this subject.

The court found a similar method of evading the sweeping prohibition of the revision of 1793, with respect to notice in Lawrence *v.* Bowman (1 U. S. C. C., Alester, 230).

But the earliest provision requiring notice came before the Supreme Court in 1799, in New York v. Connecticut (4 Dall., 1). Its constitutionality was not questioned. The only issue was as to the sufficiency of the notice, Chief Justice Ellsworth, for the court, saying: "The prohibition contained in the statute that writs of injunction shall not be granted without reasonable notice to the adverse party or his attorney, extends to injunctions granted by the Supreme Court or the circuit court as well as to those that may be granted by a single judge. The design and effect, however, of injunctions must render a shorter notice, reasonable notice, in the case of an application to a court than would be so construed in most cases of an application to a single judge, and until a general rule shall be settled the particular circumstances of each case must also be regarded."

Here was a case in which, although no point was made by counsel on any question of constitutionality, the Supreme Court accepted the comprehensive requirement of the act of 1793 as binding on all the Federal courts.

Now we come to the present law, found in section 263 of the Judicial Code, and reading thus:

> Whenever notice is given of a motion for an injunction out of a district court, the court or judge thereof may, if there appears to be danger of irreparable injury from delay, grant an order restraining the act sought to be enjoined until the decision upon the motion; and such order may be granted with or without security, in the discretion of the court or judge.

This was the law as contained in section 718 of the Revised Statutes, said section having been enacted in 1872. It simply embodies the practice of the courts with respect to notice, a practice established notwithstanding the nonconformity of the practice to the positive requirement of the act of 1793.

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PROPOSED CHANGES.

But it will be seen that the giving of notice and requiring security, left by the present law to the discretion of the court, is by this bill a positive duty, except where irreparable and immediate injury might result from the giving of a notice or the delay incident thereto, in which case the court or judge may issue a temporary restraining order pending the giving of the notice. The concluding part of the amended section has an effect to safeguard parties from the reckless and inconsiderate issuance of restraining orders. Injuries compensable in damages recoverable in an action at law are not treated or considered by the courts as irreparable in any proper legal sense, and parties attempting to show why the injury sought to be restrained is irreparable would often disclose an adequate legal remedy. This provision requires the reason to appear in the order, but it should be read in connection with the new section 266b, requiring the order to be made by the court or judge to be likewise specific in other essentials, and section 266c, requiring that every complaint filed for the purpose of obtaining the order, in the cases there specified, shall contain a particular description of the property or property right for which the prohibitive power of the court is sought, and that such complaint shall be verified.

A valuable provision of the amendment is one that a restraining order issued without notice "shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record."

A legislative precedent for such legislation is found in the act of 1807, wherein it was provided that injunctions granted by the district courts "shall not, unless so ordered by the circuit court, continue longer than to the circuit court next ensuing, nor shall an injunction be issued by a district judge in any case where a party has had a reasonable time to apply to the circuit court for the writ." (U. S. Stat. L., vol. 2, p. 418.)

If the views of President Taft on this subject have not changed, he will welcome an opportunity to approve a bill containing such provisions as those in the amendment governing notice, because in his message of December 7, 1909, to the regular session of the Sixty-first Congress, after a quotation from the Republican platform of 1908, he said:

I recommend that in compliance with the promise thus made appropriate legislation be adopted. The ends of justice will best be met and the chief cause of complaint against ill-considered injunctions without notice will be removed by the enactment of a statute forbidding hereafter the issuing of any injunction or restraining order, whether temporary or permanent, by any Federal court without previous notice and a reasonable opportunity to be heard on behalf of the parties to be enjoined; unless it shall appear to the satisfaction of the court that the delay necessary to give such notice and hearing would result in irreparable injury to the complainant, and unless, also, the court shall from the evidence make a written finding, which shall be spread upon the court minutes, that immediate and irreparable injury is likely to ensue to the complainant, and shall define the injury, state why it is irreparable, and shall also indorse on the order issued the date and the hour of the issuance of the order. Moreover, every such injunction or restraining order issued without

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previous notice and opportunity by the defendant to be heard should by force of the statute expire and be of no effect after seven days from the issuance thereof or within any time less than that period which the court may fix, unless within such seven days or such less period the injunction or order is extended or renewed after previous notice and opportunity to be heard.

My judgment is that the passage of such an act, which really embodies the best practice in equity and is very likely the rule now in force in some courts, will prevent the issuing of ill-advised orders of injunction without notice and will render such orders, when issued, much less objectionable by the short time in which they may remain effective.

II.

Section 266a simply requires security for costs and damages in all cases, leaving it no longer within the discretion of the courts whether any such security or none shall be given.

Prior to the said act of 1872 (contained in the revision of 1873) there appears to have been no legislation on the matter of security in injunction cases; but that security was usually required is a fact well known to the legal profession. It seems clearly just and salutary that the extraordinary writ of injunction should not issue in any case until the party seeking it and for whose benefit it issues has provided the other party with all the protection which security for damages affords.

It appears by the authorities, both English and American, to have been always within the range of judicial discretion, in the absence of a statute, to waive security, though better practice has been to require security as a condition to issuing restraining orders and injunctions.

The new section, 266a, takes the matter of requiring security out of the category of discretionary matters, where it was found by the Committee on Revision and permitted to remain.

For a discussion of the existing law on the question of security, we refer to Russell *v.* Farley (105 U. S., 433).

III.

Section 266b is of general application. Defendants should never be left to guess at what they are forbidden to do, but the order "shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained." It also contains a safeguard against what have been heretofore known as dragnet or blanket injunctions, by which large numbers may be accused, and eventually punished, for violating injunctions in cases in which they were not made parties in the legal sense and of which they had only constructive notice, equivalent in most cases to none at all. Moreover, no person shall be bound by any such order without actual personal notice.

EXISTING LAW AND PRACTICE.

There was heretofore no Federal statute to govern either the matter of making or form and contents of orders for injunctions. Of course, where a restraining order is granted that performs the functions of order, process, and notice. But the writ of injunction, where

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temporary, is preceded by the entry of an order, and where permanent by the entry of a decree.

The whole matter appears to have been left, both by the States and the Federal Government, to the courts, which have mostly conformed to established principles.

The most important of these was that the order should be sufficiently clear and certain in its terms that the defendants could by an inspection of it readily know what they were forbidden to do.

See Arthur *v.* Oakes, 63 Fed. Rep., 310, 25 L. R. An., 414; St. Louis Min., etc., Co. *v.* Co. c. Montana Min. Co., 58 Fed. Rep., 129; Sweet *v.* Mangham, 4 Jur., 479; 9 L. J. Ch., 323, 34 Eng. Ch., 51; Cother *v.* Midland R. Co., 22 Eng. Ch., 469.

It should also be in accordance with the terms of the prayer of the bill. (State *v.* Rush County, 35 Kan., 150; McEldowney *v.* Lowther, 49 W. Va., 348.) It should not impose a greater restraint than is asked or is necessary (Shubert *v.* Angeles, 80 N. Y. App. Div., 625; New York Fire Dept. *v.* Baudet, 4 N. Y. Supp., 206), and should be specific and certain. (Orris *v.* National Commercial Bank, 81 N. Y. App. Div., 631; St. Rege's Paper Co. *v.* Santa Clara Lumber Co., 55 N. Y. App. Div., 225; Norris *v.* Cable, 8 Rich (S. C.), 58; Parker *v.* First Ave. Hotel Co., 24 Ch. Div., 282; Hackett *v.* Baiss, L. R., 20 Eq., 494; Dover Harbour *v.* London, etc., R. Co., 3 De. G. F. & J., 559; Low *v.* Innes, 4 De G. J. & S., 286.)

So it appears that section 266b really does not change the best practice with respect to orders, but imposes the duty upon the courts, in mandatory form, to conform to correct rules, as already established by judicial precedent.

That such provision is necessary and timely will appear upon an inspection of some orders which have issued.

For instance, take the case of Kansas & Texas Coal Co. *v.* Denney, decided in the district court for Arkansas in 1899. And here, as in most of such cases, no full official report of the case can be obtained, but a mere memorandum. In this case the defendants (strikers) were ordered to be and were enjoined from "congregating at or near or on the premises of the property of the Kansas & Texas Coal Co. in, about, or near the town of Huntington, Ark., or elsewhere, for the purpose of intimidating its employees or preventing said employees from rendering service to the Kansas & Texas Coal Co. from inducing or coercing by threats, intimidation, force, or violence any of said employees to leave the employment of the said Kansas & Texas Coal Co., or from in any manner interfering with or molesting any person or persons who may be employed or seek employment by and of the Kansas & Texas Coal Co. in the operation of its coal mines at or near said town of Huntington, or elsewhere."

It will be observed that a defendant in that suit would render himself liable to punishment for contempt if he met a man seeking employment by the company in a foreign country and persuaded him not to enter its service.

The bill further provides that it shall be "binding only upon parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same." Unquestionably this is the true rule, but unfortunately the courts have not

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uniformly observed it. Much of the criticism which arose from the Debs case (64 Fed. Rep., 724) was due to the fact that the court undertook to make the order effective not only upon the parties to the suit and those in concert with them, but upon all other persons whomsoever. In Scott *v.* Donald (165 U. S., 117), the court rebuked a violation by the lower court in the following language:

The decree is also objectionable because it enjoins persons not parties to the suit. This is not a case where the defendants named represent those not named. Nor is there alleged any conspiracy between the parties defendant and other unknown parties. The acts complained of are tortious and do not grow out of any common action or agreement between constables and sheriffs of the State of South Carolina. We have indeed a right to presume that such officers, though not named in this suit, will, when advised that certain provisions of the act in question have been pronounced unconstitutional by the court to which the Constitution of the United States refers such questions, voluntarily refrain from enforcing such provisions; but we do not think it comports with well-settled principles of equity procedure to include them in an injunction in a suit in which they were not heard or represented or to subject them to penalties for contempt in disregarding such an injunction. (Fellows *v.* Fellows, 4 John. Chan., 25, citing Iveson *v.* Harris, 7 Ves., 257.)

The decree of the court below should therefore be amended by being restricted to the parties named as plaintiff and defendants in the bill, and this is directed to be done, and it is otherwise.

IV.

Section 266c is concerned with cases between "employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment."

The first clause of the new section 266c relates to the contents and form of the complaint. It must disclose a threatened irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law. And the property or property right must be described "with particularity."

These requirements are merely those of good pleading and correct practice in such cases established by a long line of precedents, well understood by the profession and which should be but perhaps have not been uniformly applied. To show this it is only necessary to briefly state the applicable rules, citing some of the numerous authorities.

As the granting of an injunction rests in some degree in the discretion of the chancellor, allegations in the complaint should show candor and frankness. (Moffatt *v.* Calvert County Comm'rs, 97 Md., 266; Johnston *v.* Glenn, 40 Md., 200; Edison Storage Battery Co. *v.* Edison Automobile Co., 67 N. J. Eq., 44; Sharp *v.* Ashton, 3 Ves. & B., 144.)

The omission of material facts which, in the nature of the case, must be known to the plaintiff will preclude the granting of the relief. (Sprigg *v.* Western Tel. Co., 46 Md., 67; Walker *v.* Burks, 48 Tex., 206.)

An injunction may be refused if the allegations are argumentative and inferential. (Battle *v.* Stevens, 32 Ga., 25; Warsop *v.* Hastings, 22 Minn., 437.)

The allegations of the complaint must be definite and certain. (St. Louis *v.* Knapp Co., 104 U. S., 658.)

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The complaint must set forth the facts with particularity and minuteness (Minor *v.* Terry, Code Rep. N. S. (N. S.), 384), and no material fact should be left to inference. (Warsop *v.* Hastings, 22 Minn., 437; Philphower *v.* Todd, 11 N. J. Eq., 54; Perkins *v.* Collins, 3 N. J. Eq., 482.)

Facts, and not the conclusions or opinions of the pleader, must be stated. (McBride *v.* Ross (D. C.), 13 App. Cas., 576.)

An injunction should not ordinarily be granted when the material allegations are made upon information and belief. (Brooks *v.* O'Hara, 8 Fed. Rep., 529; In re Holmes, 3 Fed. Rep. Cases No. 1, 562.)

The complaint must clearly show the threats or acts of defendant which cause him to apprehend future injury. (Mendelson *v.* McCabe, 144 Cal., 230; Ryan *v.* Fulghurn. 96 Ga., 234.) And it is not sufficient to allege that the defendant claims the right to do an act which plaintiff believes illegal and injurious to him, since the intention to exercise the right must be alleged. (Lutman *v.* Lake Shore, etc., R. Co., 56 Ohio St., 433; Attorney General *v.* Eau Claire, 37 Wis., 400.)

The bill must allege facts which clearly show that the plaintiff will sustain substantial injury because of the acts complained of. (Home Electric Light, etc., Co. *v.* Gobe Tissue Paper Co., 146 Ind., 673; Boston, etc., Ry. Co. *v.* Sullivan, 177 Mass., 230; McGovern *v.* Loder (N. J. Ch., 1890), 20 Atl. Rep., 209; Smith *v.* Lockwood, 13 Barb., 209; Jones *v.* Stewart (Tenn. Ch. App., 1900), 61 Sev., 105; Spokane St. R. Co. *v.* Spokane, 5 Wash., 634; State *v.* Eau Claire, 40 Wis., 533. And it is not sufficient to merely allege injury without stating the facts. Giffing *v.* Gibb, 2 Black, 519; Spooner *v.* McConnell, 22 Fed. Cases No. 13245; Bowling *v.* Crook, 104 Ala., 130; Grant *v.* Cooke, 7 D. C., 165; Coast Line R. Co. *v.* Caben, 50 Ga., 451; Dinwiddie *v.* Roberts, 1 Greene, 363; Wabaska Electric Co. *v.* Wymore Co., Nebr., 199; Lubrs *v.* Sturtevant, 10 Or., 170; Farland *v.* Wood, 35 W. Va., 458.)

Since the jurisdiction in equity depends on the lack of an adequate remedy at law, a bill for an injunction must state facts from which the court can determine that the remedy at law is inadequate. (Pollock *v.* Farmers' Loan & Tr. Co., 157 U. S., 429; Safe-Deposit etc., Co. *v.* Anniston, 96 Fed. Rep., 661.)

If the inadequacy of the legal remedy depends upon the defendant's insolvency the fact of insolvency must be positively alleged. (Fullington *v.* Kyle Lumber Co., 139 Ala., 242; Graham *v.* Tankersley, 15 Ala., 634.)

An injunction will not be granted unless the complaint shows that a refusal to grant the writ will work irreparable injury. (California Nav. Co. *v.* Union Transp. Co., 122 Cal., 641; Cook County Brick Co., 92 Ill. App., 526; Manufacturers' Gas. Co. *v.* Indiana Nat. Gas, etc., Co., 156 Ind., 679.) And it is not sufficient simply to allege that the injury will be irreparable, but the facts must be stated so that the court may see that the apprehension of irreparable injury is well founded. (California Nav. Co. *v.* Union Transp. Co., 122 Cal., 641; Empire Transp. Co. *v.* Johnson, 76 Conn., 79; Orange City *v.* Thayer, 45 Fla., 502.)

The plaintiff must allege that he has done or is willing to do everything which is necessary to entitle him to the relief sought. (Stanley *v.* Gadsley, 10 Pet. (U. S.), 521; Elliott *v.* Sihley, 101 Ala.,

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344; Burham *v.* San Francisco Fuse Mfg. Co., 76 Cal., 26; Sloan *v.* Coolbaugh, 10 Iowa, 31; Lewis *v.* Wilson, 17 N. Y. Supp., 128; Spann *v.* Sterns, 18 Tex., 556.)

The second paragraph of section 266c is concerned with specific acts which the best opinion of the courts holds to be within the right of parties involved upon one side or the other of a trades dispute. The necessity for legislation concerning them arises out of the divergent views which the courts have expressed on the subject and the difference between courts in the application of recognized rules. It may be proper to notice, in passing, that the State courts furnish precedents frequently for action by the Federal courts, and vice versa, so that a pernicious rule or an error in one jurisdiction is quickly adopted by the other. It is not contended that either the Federal or the State courts have stood alone in any of the precedents which are disapproved. The provisions of this section of the bill are self-explanatory, and in justification of the language used we content ourselves with submitting quotations from recognized authorities. We classify these authorities by quoting first the clauses of the bill to which they have particular reference.

The first clause:

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do.

In Allis Chalmers Co. *v.* Iron Molders' Union (C. C., 150 Fed. R., 155), Judge Sanborn said:

The conclusion to be drawn from the cases, as applicable to this controversy, is, I think, that the combination of the defendant unions, their members, and the defendant O'Leary, to strike, and to further enforce the strike, and if possible to bring the employers to terms by preventing them from obtaining other workmen to replace the strikers, was not unlawful, because grounded on just cause or excuse, being the economic advancement of the union molders, and the competition of labor against capital.

In Arthur *v.* Oakes (63 Fed. R., 310, 317) Justice Harlan, for the court, said:

If an employee quits without cause, and in violation of an express contract to serve for a stated time, then his quitting would not be of right, and he would be liable for any damages resulting from a breach of his agreement, and perhaps, in some states of case, to criminal prosecution for loss of life or limb by passengers or others, directly resulting from his abandoning his post at a time when care and watchfulness were required upon his part in the discharge of a duty he had undertaken to perform. And it may be assumed for the purposes of this discussion that he would be liable in like manner where the contract of service, by necessary implication arising out of the nature or the circumstances of the employment, required him not to quit the service of his employer suddenly, and without reasonable notice of his intention to do so. But the vital question remains whether a court of equity will, under any circumstances, by injunction, prevent one individual from quitting the personal service of another? An affirmative answer to this question is not, we think, justified by any authority to which our attention has been called or of which we are aware. It would be an invasion of one's natural liberty to compel him to work for or to remain in the personal service of another. One who is placed under such constraint is in a condition of involuntary servitude—a condition which the supreme law of the land declares shall not exist within the United States, or in any place subject to their jurisdiction. Courts of equity have sometimes sought to sustain a contract for services requiring special knowledge or skill by enjoining acts or conduct that would constitute a breach of such contract.

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The rule, we think, is without exception that equity will not compel the actual, affirmative performance by an employee of merely personal services, any more than it will compel an employer to retain in his personal service one who, no matter for what cause, is not acceptable to him for service of that character. The right of an employee engaged to perform personal service to quit that service rests upon the same basis as the right of his employer to discharge him from further personal service. If the quitting in the one case or the discharging in the other is in violation of the contract between the parties, the one injured by the breach has his action for damages; and a court of equity will not, indirectly or negatively, by means of an injunction restraining the violation of the contract, compel the affirmative performance from day to day or the affirmative acceptance of merely personal services. Relief of that character has always been regarded as impracticable.

Sitting with Justice Harlan at circuit in that case were other learned jurists, but there was no dissent from these views.

In this connection we cite from the luminous opinion by Judge Loring delivering the opinion in Pickett *v.* Walsh (192 Mass., 572), a clear exposition of our views here expressed. We regret the necessity of limiting the quotation, because the whole opinion could be studied with profit.

The case is one of competition between the defendant unions and the individual plaintiffs for the work of pointing. The work of pointing for which these two sets of workmen are competing is work which the contractors are obliged to have. One peculiarity of the case, therefore, is that the fight here is necessarily a triangular one. It necessarily involves the two sets of competing workmen and the contractor, and is not confined to the two parties to the contract, as is the case where workmen strike to get better wages from their employer or other conditions which are better for them. In this respect the case is like Mogul Steamship Co. *v.* McGregor (23 Q. B. D., 598; S. C., on appeal (1892); A. C., 25).

The right which the defendant unions claim to exercise in carrying their point in the course of this competition is a trade advantage, namely, that they have labor which the contractors want, or, if you please, can not get elsewhere; and they insist upon using this trade advantage to get additional work, namely, the work of pointing the bricks and stone which they lay. It is somewhat like the advantage which the owner of back land has when he has bought the front lot. He is not bound to sell them separately. To be sure, the right of an individual owner to sell both or none is not decisive of the right of a labor union to combine to refuse to lay bricks or stone unless they are given the job of pointing the bricks laid by them. There are things which an individual can do which a combination of individuals can not do. But having regard to the right on which the defendants' organization as a labor union rests, the correlative duty owed by it to others, and the limitation of the defendants' rights coming from the increased power of organization, we are of opinion that it was within the rights of these unions to compete for the work of doing the pointing and, in the exercise of their right of competition, to refuse to lay bricks and set stone unless they were given the work of pointing them when laid. (See in this connection Plant *v.* Woods, 176 Mass., 492, 502; Berry *v.* Donovan, 188 Mass., 353, 357.)

The result to which that conclusion brings us in the case at bar ought not to be passed without consideration.

The result is harsh on the contractors, who prefer to give the work to the pointers, because (1) the pointers do it by contract (in which case the contractors escape the liability incident to the relation of employer and employee); because (2) the contractors think that the pointers do the work better, and if not well done the buildings may be permanently injured by acid; and, finally, (3) because they get from the pointers better work with less liability at a smaller cost. Again, so far as the pointers (who can not lay brick or stone) are concerned, the result is disastrous. But all that the labor unions have done is to say you must employ us for all the work or none of it. They have not said that if you employ the pointers you must pay us a fine, as they did in Carew *v.* Rutherford (106 Mass., 1). They have not undertaken to forbid the contractors employing pointers, as they did in Plant *v.* Woods (176 Mass., 492). So far as the labor unions are concerned, the contractors can employ pointers if they choose, but if the contractors choose to give the work of pointing the

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bricks and stones to others the unions take the stand that the contractors will have to get some one else to lay them. The effect of this in the case at bar appears to be that the contractors are forced against their will to give the work of pointing to the masons and bricklayers. But the fact that the contractors are forced to do what they do not want to do is not decisive of the legality of the labor union's acts. That is true wherever a strike is successful. The contractors doubtless would have liked it better if there had been no competition between the bricklayers' and masons' unions on the one hand and the individual pointers on the other hand. But there is competition. There being competition, they prefer the course they have taken. They prefer to give all the work to the unions rather than get nonunion men to lay bricks and stone to be pointed by the plaintiffs.

Further, the effect of complying with the labor unions' demands apparently will be the destruction of the plaintiff's business. But the fact that the business of a plaintiff is destroyed by the acts of the defendants done in pursuance of their right of competition is not decisive of the illegality of the acts. It was well said by Hammond, J., in Martell *v.* White (185 Mass., 255, 260) in regard to the right of a citizen to pursue his business without interference by a combination to destroy it: "Speaking generally, however, competition in business is permitted, although frequently disastrous to those engaged in it. It is always selfish, often sharp, and sometimes deadly."

* * * * * * *

The application of the right of the defendant unions, who are composed of bricklayers and stonemasons, to compete with the individual plaintiffs, who can do nothing but pointing (as we have said) is in the case at bar disastrous to the pointers and hard on the contractors. But this is not the first case where the exercise of the right of competition ends in such a result. The case at bar is an instance where the evils which are or may be incident to competition bear very harshly on those interested, but in spite of such evils competition is necessary to the welfare of the community.

To the same effect is Allis-Chalmers Co. *v.* Iron Molders' Union (C. C.) (150 Fed. Rep., 155), per Sanborn, J.

The consensus of judicial view, as expressed in these cases and others which might be cited, is that workingmen may lawfully combine to further their material interests without limit or constraint, and may for that purpose adopt any means or methods which are lawful. It is the enjoyment and exercise of that right and none other that this bill forbids the courts to interfere with.

The second clause:

Or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working.

This language is taken from the British trades dispute act of 1906, the second section of which is as follows:

It shall be lawful for one or more persons acting on their own behalf or on behalf of an individual, corporation, or firm in contemplation or furtherance of a trade dispute to attend at or near a house or place where a person resides or works or carries on business or happens to be if they so attend merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from work.

This, it has been said, "might well be termed a codification of the law relating to peaceful picketing as laid down by a majority of the American courts." (Martin's Law of Labor Unions, sec. 173.) Upon the general subject the same author says:

There are some decisions which hold that all picketing is unlawful, and it has been said that from the very nature of things peaceful picketing is of rare occurrence and "very much of an illusion," yet the view taken by the majority of decisions and which is best supported by reason is that picketing, if not conducted in such numbers as will of itself amount to intimidation, and when

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confined to the seeking of information such as the number and names and places of residence of those at work or seeking work on the premises against which the strike is in operation, and to the use of peaceful argument and entreaty for the purpose of procuring such workmen to support the strike by quitting work or by not accepting work, is not unlawful, and will furnish no ground for injunction or an action at law for damages. * * * That the views set forth in this section are correct does not admit of doubt. Indeed, it may readily be seen that the right almost universally conceded to striking workmen to use peaceable argument and persuasion to induce other workmen to aid them in their strike might, and very probably would be, most seriously hampered if the right of picketing were denied. "The right to persuade new men to quit or decline employment is of little worth unless the strikers may ascertain who are the men that their late employer has persuaded or is attempting to persuade to accept employment." While it is true that in the guise of picketing strikers may obstruct and annoy the new men, and by insult and menacing attitude intimidate them as effectually as by physical assault, yet it can always be determined from the evidence whether the efforts of the pickets are limited to getting into communication with the new men for the purpose of presenting arguments and appeals to their free judgment. (Martin's Modern Law of Labor Unions, sec. 169, pp. 233, 234, and 235.)

The third clause:

Or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do.

The best opinion to be gathered from the conflicting opinions on this matter have been well summarized in the most recent textbook on the subject as follows:

It is lawful for members of a union, acting by agreement among themselves, to cease to patronize a person against whom the concert of action is directed when they regard it for their interest to do so. This is the so-called "primary boycott," and in furtherance thereof it is lawful to circulate notices among the members of the union to cease patronizing one with whom they have a trade dispute and to announce their intention to carry their agreement into effect. For instance, if an employer of labor refuses to employ union men the union has a right to say that its members will not patronize him. A combination between persons merely to regulate their own conduct and affairs is allowable, and a lawful combination though others may be indirectly affected thereby. And the fact that the execution of the agreement may tend to diminish the profits of the party against whom such act is aimed does not render the participants liable to a prosecution for a criminal conspiracy or to a suit for injunction. Even though he sustain financial loss, he will be without remedy, either in a court of law or a court of equity. So long as the primary object of the combination is to advance its own interests and not to inflict harm on the person against whom it is directed, it is not possible to see how any claim of illegality could be sustained. (Martin's Modern Law of Labor Unions, pp. 107, 108, and 109.)

It is not unlawful for members of a union or their sympathizers to use, in aid of a justifiable strike, peaceable argument and persuasion to induce customers of the person against whom the strike is in operation to withhold their patronage from him, although their purpose in so doing is to injure the business of their former employer and constrain him to yield to their demands, and the same rule applies where the employer has locked out his employees. These acts may be consummated by direct communication or through the medium of the press, and it is only when the combination becomes a conspiracy to injure, by threats and coercion, the property rights of another that the power of the courts can be invoked. The vital distinction between combinations of this character and boycotts is that here no coercion is present, while, as was heretofore shown, coercion is a necessary element of a boycott. In applying the principles stated it has been held that the issuance of circulars by members of a labor union notifying persons engaged in the trade of controversies existing between such members and their employer and requesting such persons not to deal with the employer is not unlawful and will not be enjoined where no intimidation or violence is used. (Martin's Modern Law of Labor Unions, pp. 109 and 110.)

Said Mr. Justice Van Orsdel in his concurring opinion in Court of Appeals of the District of Columbia (the American Federation of

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Labor et al., appellants, *v.* the Buck's Stove & Range Co., No. 1916, Decided Mar. 11, 1909):

* * * * * * *

Applying the same principle, I conceive it to be the privilege of one man, or a number of men, to individually conclude not to patronize a certain person or corporation. It is also the right of these men to agree together, and to advise others, not to extend such patronage. That advice may be given by direct communication or through the medium of the press, so long as it is neither in the nature of coercion or a threat.

As long as the actions of this combination of individuals are lawful, to this point it is not clear how they can become unlawful because of their subsequent acts directed against the same person or corporation. To this point there is no conspiracy—no boycott. The word "boycott" is here used as referring to what is usually understood as "the secondary boycott," and when used in this opinion it is intended to be applied exclusively in that sense. It is, therefore, only when the combination becomes a conspiracy to injure by threats and coercion the property rights of another that the power of the courts can be invoked. This point must be passed before the unlawful and unwarranted acts which the courts will punish and restrain are committed.

The definition of a boycott given by Judge Taft in Toledo Co. *v.* Penna. Co. (54 Fed., 730) is as follows: "As usually understood, a boycott is a combination of many to cause a loss to one person by coercing others against their will to withdraw from him their beneficial business intercourse through threats that, unless those others do so, the many will cause similar loss to them." In Gray *v.* Building Trades Council (91 Minn., 171) the word "boycott" is defined as follows: "A boycott may be defined to be a combination of several persons to cause a loss to a third person by causing others against their will to withdraw from him their beneficial business intercourse through threats that unless a compliance with their demands be made the persons forming the combination will cause loss or injury to him, or an organization formed to exclude a person from business relations with others by persuasion, intimidation, and other acts which tend to violence, and thereby cause him through fear of resulting injury to submit to dictation in the management of his affairs. Such acts constitute a conspiracy and may be restrained by injunction." In Brace Brothers *v.* Evans (3 R. & Corp. L. J., 561) it is said: "The word itself implies a threat. In popular acceptation it is an organized effort to exclude a person from business relations with others by persuasion, intimidation, and other acts which tend to violence, and they coerce him, through fear of resulting injury, to submit to dictation in the management of his affairs."

It will be observed that the above definitions are in direct conflict with the earlier English decisions and indicate a distinct departure by our courts. This undoubtedly is in recognition of the right of a number of individuals to combine for the purpose of improving their condition. The rule of the English common law, from which we have so far departed, is expressed in Bowen *v.* Hall (6 Q. B. Div., 333) as follows: "If the persuasion be used for the indirect purpose or injuring the plaintiff, or of benefiting the defendant at the expense of the plaintiff, it is a malicious act, which is in law and in fact a wrong act, and therefore a wrongful act, and therefore an actionable act if injury ensues from it."

From this clear distinction it will be observed that there is no boycott until the members of the organization have passed the point of refusing to patronize the person or corporation themselves and have entered the field where, by coercion or threats, they prevent others from dealing with such persons or corporation. I fully agree with this distinction.

So long, then, as the American Federation of Labor and those acting under its advice refused to patronize complainant, the combination had not arisen to the dignity of an unlawful conspiracy or a boycott.

In Hopkins *v.* Oxley Stave Co. (83 Fed. R., 912), Judge Caldwell, in a dissenting opinion, said:

While laborers, by the application to them of the doctrine we are considering, are reduced to individual action, it is not so with the forces arrayed against them. A corporation is an association of individuals for combined action; trusts are corporations combined together for the very purpose of collective action and boycotting; and capital, which is the product of labor, is in itself a powerful collective force. Indeed, according to this supposed rule, every

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corporation and trust in the country is an unlawful combination, for while its business may be of a kind that its individual members, each acting for himself, might lawfully conduct, the moment they enter into a combination to do that same thing by their combined effort, the combination becomes an unlawful conspiracy. But the rule is never so applied.

Corporations and trusts and other combinations of individuals and aggregations of capital extend themselves right and left through the entire community, boycotting and inflicting irreparable damage upon and crushing out all small dealers and producers, stifling competition, establishing monopolies, reducing the wages of the laborer, raising the price of food on every man's table, and of the clothes on his back and of the house that shelters him, and inflicting on the wage earners the pains and penalties of the lockout and the black list, and denying to them the right of association and combined action by refusing employment to those who are members of labor organizations; and all these things are justified as a legitimate result of the evolution of industries resulting from new social and economic conditions, and of the right of every man to carry on his business as he sees fit, and of lawful competition. On the other hand, when laborers combine to maintain or raise their wages or otherwise to better their condition or to protect themselves from oppression or to attempt to overcome competition with their labor or the products of their labor in order that they may continue to have employment and live, their action, however open, peaceful, and orderly, is branded as a "conspiracy." What is "competition" when done by capital is "conspiracy" when done by laborers. No amount of verbal dexterity can conceal or justify this glaring discrimination. If the vast aggregation and collective action of capital is not accompanied by a corresponding organization and collective action of labor, capital will speedily become proprietor of the wage earners as well as the recipient of the profits of their labor. This result can only be averted by some sort of organization that will secure the collective action of wage earners. This is demanded, not in the interest of wage earners alone, but by the highest considerations of public policy.

In Vegelahn *v.* Gunter (167 Mass., 92) Justice Holmes, now of the Supreme Court of the United States, delivering the opinion, said:

It is plain from the slightest consideration of practical affairs, or the most superficial reading of industrial history, that free competition means combination, and that the organization of the world, now going on so fast, means an ever-increasing might and scope of combination. It seems to me futile to set our faces against this tendency. Whether beneficial on the whole, as I think it is, or detrimental, it is inevitable, unless the fundamental axioms of society and even the fundamental conditions of life are to be changed. One of the eternal conflicts out of which life is made up is that between the effort of every man to get the most he can for his services and that of society, disguised under the name of capital, to get his services for the least possible return. Combination on the one side is potent and powerful. Combination on the other is a fair and equal way. * * * If it be true that the workingmen may combine with a view, among other things, to getting as much as they can for their labor, just as capital may combine with a view to getting the greatest possible return, it must be true that when combined they have the same liberty that combined capital has, to support their interest by argument, persuasion, and the bestowal or refusal of those advantages which they otherwise lawfully control.

The logic of Justice Sherwood, of the Supreme Court of Missouri, in Marx & Haas Co. *v.* Watson (56 L. R. A., 951), appears unanswerable. He discussed the question from a constitutional standpoint, taking for his text the Missouri bill of rights, substantially the same as the first amendment to the Federal Constitution, saying (p. 956):

The evident idea of that section is penalty or punishment, and not prevention, because if prevention exists, then no opportunity can possibly arise for one becoming responsible by saying, writing, or publishing "whatever he will on any subject." The two ideas—the one absolute freedom "to say, write, or publish whatever he will on any subject," coupled with responsibility therefor, and the other idea of preventing any such free speech, free writing, or free publication—can not coexist.

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The opinion continues, after citing authorities, Federal and State, as follows:

Section 14, supra, makes no distinction and authorizes no difference to be made by courts or legislatures between a proceeding set on foot to enjoin the publication of a libel and one to enjoin the publication of any other sort or nature, however injurious it may be, or to prohibit the use of free speech or free writing on any subject whatever, because wherever the authority of injunction begins there the right of free speech, free writing, or free publication ends. No halfway house stands on the highway between absolute prevention and absolute freedom.

The fourth clause:

Or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value.

In at least two instances State courts (Reynolds *v.* Davis, 198 Mass., 294, and A. S. Barnes & Co. *v.* Chicago Typographical Union, 232 Ill., 424) have held that if the purpose of a strike was unlawful the officers and members of unions should be enjoined from giving financial aid in the form of strike benefits in furtherance thereof. But in the only case of the kind disposed of by a Federal court an entirely different conclusion was reached. In A. S. Barnes & Co. *v.* Berry (157 Fed. R., 883) it was held without exception or qualification that an employer against whom a strike was in operation could not have enjoined the officers of a union from giving its striking members strike benefits. The reason assigned was that—

the strike benefit fund is created by moneys deposited by the men with the general officers for the support of themselves and families in times of strike, and the court has no more control of it than it would have over deposits made by them in the banks.

This decision is in harmony with two recent English decisions—Denabey, etc., Collieries *v.* Yorkshire Miners' Assn. (75 L. J. K. B., 384); Lyons *v.* Wilkins (67 L. J., ch. 383).

The fifth and sixth clauses:

Or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

After all that can be asserted against the provisions of section 266c, or any provision of the bill elsewhere found has been said, we can truly say that it does not transcend or contravene the clear and conclusive statement of the law as stated in National Fireproofing Co. *v.* Mason Builders Assn. (169 Fed. Rep., 260). Delivering the opinion of the court in that case, Judge Noyes said (p. 265):

As a general rule it may be stated, that when the chief object of a combination is to injure or oppress third persons, it is a conspiracy; but that when such injury or oppression is merely incidental to the carrying out of a lawful purpose, it is not a conspiracy. Stated in another way: A combination, entered into for the real malicious purpose of injuring a third person in his business or property, may amount to a conspiracy and furnish a ground of action for damages sustained or call for an injunction, even though formed for the ostensible purpose of benefiting its members, and actually operating to some extent to their advantage. But a combination without such ulterior oppressive object entered into merely for the purpose of promoting by lawful means the common interests of its members, is not a conspiracy. A laborer, as well as a builder, trader, or manufacturer, has the right to conduct his affairs in any lawful manner, even though he may thereby injure others. So several laborers and builders may combine for mutual advantage, and so long as the motive is not malicious, the object not unlawful nor oppressive, and the means neither deceitful nor fraudulent, the result is not a conspiracy, although it may necessarily work injury to other persons. The damage to such persons may

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be serious—it may even extend to their ruin—but if it is inflicted by a combination in the legitimate pursuit of its own affairs, is a damnum absque injuria. The damage is present, but the unlawful object is absent. And so the essential question must always be, whether the object of a combination is to do harm to others or to exercise the rights of the parties for their own benefit.

Any attack upon the policy of this section of the bill must be directed at its specific prohibitions; nor will any mere general criticism, or any attack which does not particularize herein, be worthy of serious attention. The ready and perfect defense to all such is at hand, and imposes no difficult task. Is there any reason why the complainant, seeking an injunction against workingmen, should not describe with particularity in his cause of complaint the nature of the threatened injury, and the property or property right involved, as in other cases? Is there any reason why an injunction should issue at all involving or growing out of the relation created between employer and employee to prevent the termination of the relation, or advising and persuading others to do so, or to prevent the unrestricted communication and exchange of information between persons, or the giving of aid by financial contributions in any labor affair or dispute? Is there any reason, after a labor dispute has arisen and a socially hostile attitude has been created, for an injunction to prevent abstinence in patronizing or service by one party for the other's benefit, or the exercise of the right of free speech in advising or inducing such abstinence on the part of others? Is there, in short, any good reason why, after a dispute has arisen and the parties are "at arms length," a court of equity should interpose its strong arm merely because such dispute has arisen?

At its hearings the committee had the benefit of learned and illuminating arguments against the several bills. Counsel in opposition were patiently and respectfully heard, and the committee profited largely by having heard them, as is shown by the results of its labors. The bill does not interfere with the Sherman Antitrust Act at all; it leaves the law of conspiracy untouched, and is not open to effective criticism on any constitutional ground. The subject of the constitutionality of such legislation was exhausted at the hearings on the contempt bill (H. R. 22591), returned to the House with a separate report in which all constitutional objections are fully met.

NO QUESTION OF CONSTITUTIONALITY INVOLVED.

This bill does not, any more than does the contempt bill, invade the jurisdiction of the courts or attempt legislatively to exercise a judicial function. It merely limits and circumscribes the remedy and procedure. While we here enter into no elaborate discussion of the authorities on this topic, yet, for convenience of reference, we insert a synopsis. On point of inconsistency between our theory of government and exercise of arbitrary power see Yick Wo *v.* Hopkins (118 U. S. Rep., 369). For a case in which Congress was held to have constitutionally exercised power to take away all remedy see Finck *v.* O'Neill (106 U. S., 272); and for a case where a statute taking away the power to issue an injunction in a certain case wherein the jurisdiction had been previously held and exercised was recognized without question as of binding force see Sharon *v.* Terry (36 Fed. Rep., 365). For a general statement of the proposition that

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the inferior courts of the United States are all limited in their nature and constitutions and have not the powers inherent in courts existing by prescription or by the common law see Cary *v.* Curtiss (3 How. (U. S.), 236, 254). The same principle still more elaborately stated and applied, Ex parte Robinson (19 Wall. (U. S.), 505).

Many decisions on the question of injunctive process and jurisdiction in labor cases are greatly influenced by, and, indeed, sometimes founded upon, precedents established when to be a wage earner was to be a servant whose social and legal status was little above that of slavery. But even England has preceded us in new views and policies herein. The English act of 1906, set forth at length in the hearings, goes farther than it has yet been deemed possible to go in this country in relieving labor, and especially organized labor, of legal burdens and discriminations. The Supreme Court has more than once protested against attempts by any branch of the Government to exercise arbitrary power, and the courts should, and probably will, welcome the definite limitations contained in this bill if it should be enacted.

The idea has been advanced, and ably supported in argument, by one of the proponents of this legislation that liberty, and more of it, is safe in the hands of the workingmen of the country. We are convinced of the merit and truth of that contention. The tendency toward freedom and liberation from legal trammels and impediments to progress and to a great social advance is seen in nearly all civilized nations. It is an unpropitious time to oppose a reform like that embodied in this bill, in view of the fact that the abuses of power which it seeks to terminate have been, admittedly, numerous and flagrant.

[H. R. 23635, Sixty-second Congress, second session.]

IN THE HOUSE OF REPRESENTATIVES, APRIL 22, 1912.

Mr. Clayton introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 263 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended so as to read as follows, and that said act be further amended by inserting after section 266 thereof three new sections, to be numbered, respectively, 266a, 266b, 266c, reading as follows:

"SEC. 263. That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application. But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue to the complainant, and that the giving of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order

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shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

"SEC. 266a. That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

"SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

"SEC. 266c. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 612, Part 2.

REGULATION OF INJUNCTIONS.

MAY 3, 1912.—Ordered to be printed.

Mr. MOON of Pennsylvania, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 23635.]

The undersigned members of the Judiciary Committee, to whom was referred the bill (H. R. 23635) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," etc., which bill has been reported favorably, beg leave to submit herewith their views in opposition to the enactment of said measure.

The first section of the bill is intended as a substitute for the existing law on the subject of injunctions as found in section 263 of the Judicial Code, and the subsequent sections are intended to be supplementary to section 266 of the code.

According to the report of the majority of this committee, this bill intends to correct "the too ready issuance of injunctions, or the issuance without proper precautions or safeguards." If the report is predicated upon the "too ready issuance of injunctions," it is singular that it does not disclose a single case upon which the opinion of the majority could be founded. We are well aware of the charges iterated and reiterated before congressional committees alleging abuses in the issuance of injunctions. We have not found any more evidence to support them in the past than we now find in the report of the committee. We thoroughly believe, with the Supreme Court of the United States, "that no injunction ought to be granted except in a case reasonably free from doubt. We think such rule is and will be followed by all the judges of the Federal courts."

The minority members have at all times been willing to assent to a rational proposal to further safeguard the issuance of injunctions against even the possibility of abuse, and have introduced a bill for that purpose; but we can not consent to proposals which would operate to deprive the writ of half its efficiency in all cases and to determine its application in many instances by the character of the parties to the controversy rather than the nature of the wrong which is to be remedied. We think, furthermore, that the majority re-

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port is founded upon a misconception of the course of judicial decision respecting statutes regulating the issuance of injunctions, and that the legislation proposed is impracticable, invalid, in the interests of a class rather than of the community, and proposes standards of legality without parallel or precedent in our legislation.

To make our position clearer, we consider the bill in the order pursued in Report No. 612:

I.

Preliminary to a discussion of the bill, the majority gives an historical résumé of legislation respecting notice in injunction cases. We believe essential elements of that history have not received the consideration deserved from the majority, and we must disagree with them respecting conclusions drawn from both the legislation and judicial decisions of the past respecting that legislation.

On the 2d of March, 1793, was enacted legislation of which the following was a part:

> Nor shall any writ of injunction issue in any case without reasonable previous notice to the adverse party or his attorney of the time and place of moving the same. (Ch. 22, vol. 1, U. S. Stat. L., p. 534.)

The majority concludes:

> The will of Congress as thus expressed was completely thwarted and the statute nullified by the peculiar construction placed upon it by the courts.

It appears to us the majority and not the courts, have misconstrued the will of Congress. They overlook, as the court did not, the distinction described in all authoritative textbooks, familiar to every lawyer and pointed out with striking distinctness by the courts, between restraining orders intended to preserve the status quo to protect the subject matter of litigation and the preliminary and final injunctions which are issued, if at all, after hearing upon the application for the equitable remedy. That the statute in question should not be construed to prevent the issuance of restraining orders was natural and inevitable. It was a practice recognized by the English chancery from time immemorial. The early English textbooks speak of it as well understood and essential, as, for instance, Eden on Injunctions, 1821; Adams Equity, 1845.

Had the court construed the act of Congress to forbid the preservation of the subject matter of litigation until the respective rights of the litigants could be adjudicated, it would have obviously given a construction against the very essentials of justice. Indeed, the majority recognizes and admits this by its own proposal, for while it criticizes the construction which permits the issuance of restraining orders without notice under special circumstances it provides in section 263 of its own bill for the doing of the very thing which it criticizes the courts for having done.

We call attention to the English practice, because it was early held respecting the judicial power of the courts of the Union in equity that:

> The usages of the high court of chancery in England whenever the jurisdiction is exercised govern the proceedings. This may be said to be the common law of chancery, and since the organization of the Government it has been observed. (Penn. *v.* Wheeling, etc., Bridge Co., 13 How., 563; Meade *v.* Beale, 1 Campbell's Reports, 339, C. C. M. D. Tawney, 1850; Loring et al. *v.* Marsh, 2 Clifford's Reports, 469.)

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Thus, the courts did not "get around" the statute, as is suggested by the majority, but construed it in accordance with an immemorial practice of English jurisprudence which recognized the necessity of issuing restraining orders under special circumstances that the court might preserve the status quo, protect the subject matter of litigation, and preserve from destruction that upon which it was to pass judgment.

The report implies that the case of New York *v.* Connecticut (4 Dall., 1) upheld a construction which forbade the issuance of even restraining orders without notice. That issue is not presented in that case decided in 1799. The practice was first recognized four years before in the case of Schermerhorn *v.* L'Espenasse (2 Dall., 360). In this case the defendants, merchants of Amsterdam, had executed to the complainant power of attorney to receive for his own use the interest due on $180,000 of certificates of the United States, bearing interest at 6 per cent from the 1st of January, 1788, to the 31st of December, 1790, amounting to $32,400. Notwithstanding this assignment, the defendants, on the 16th of June, 1792, received certificates for the interest and funded the amount at 3 per cent in their own names. The bill prayed relief according to the equity of the case and a restraining order to prevent the defendants from transferring the stock or receiving the principal or interest. On the bill exhibited of the power of attorney and affidavits to the effect that the stock was registered in the name of the defendants on the books of the Treasurer the restraining order was granted. No subpœna was served until Mr. Lewis, on behalf of the defendants, moved for a rule to show cause why the injunction should not be dissolved. The motion was refused. An examination of the record discloses that Mr. Lewis, counsel for the defendants, supported his motion for dissolution on two grounds:

> That the injunction was issued irregularly, as there was no affidavit made of the truth of the allegations contained in the bill.

In supporting this he said:

> He did not object because the injunction was issued before a subpœna was served, as there were various cases in which justice could not otherwise be obtained.

This proceeding was had two years after the passage of the statute of 1793 before a justice of the Supreme Court who had been a member of the Congress which had enacted the statute; the hearing was held in a building adjoining that in which the act was passed and in the same district where the Congress was sitting. It demonstrates as no other case can the well-recognized equity practice in relation to temporary restraining orders, and shows the construction placed upon the statute by the profession and the court. In the meantime the practice of issuing restraining orders without notice under special circumstances of necessity was approved through the exercise of the power by the highest authority, including various justices of the circuit and district courts and Chief Justice Marshall (who is observed to issue an ex parte restraining order to prevent moneys alleged to have been improperly allowed by an administrator from being taken out of the country). (Green et al. *v.* Hanberry's Executors, 2 Brockenbrough's Reports, 405, Nov., 1830; Love *v.* Fendall's Trustees, 1 Cranch C. C., 34; Marsh et al. *v.* Bennett, 5 McLean, 117; Crane *v.* McCoy, 1 Bond's Reports, 422; Mowrey *v.* Indianapolis & C. R. Co., 17 Fed. Cas., 930.)

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Too much space would be taken by the enumeration of cases of this character, and those cited are merely offered as examples.

Finally, during the debate upon the act of 1872, now section 263 of the Judicial Code, we find two of the most distinguished lawyers of the Senate expressing the recognized practice as follows:

Mr. CARPENTER. I understand if any judge having the jurisdiction by law to grant an injunction has presented to him a bill in equity, fortified with proofs which entitle the party by the acknowledged and usual practice of a court of equity to have an injunction, the judge has no discretion to deny it.

Mr. FRELINGHUYSEN. I think that elementary provision of the law even I may have been presumed to have heard and known of.

Mr. CARPENTER. Therefore I was astonished to hear the Senator deny it.

Mr. FRELINGHUYSEN. I did not deny it. (46 Congressional Globe, p. 2492.)

Thus we find the practice respecting restraining orders recognized by Congress, by the courts, and the profession throughout the history of our Government and its necessity appreciated by the majority from its incorporation in this bill. Indeed, we believe the right to issue a restraining order upon a proper showing of its necessity to protect a right of a pecuniary nature against irreparable damage is an essential part of the judicial power in equity. If a suitor over whom a court has jurisdiction by a bill in that court discloses a state of facts where irreparable harm is threatened and where, if notice were given, irreparable damage would be done before hearing could be had or decree entered, were deprived by the legislature of the right to such a remedy, we believe it would be equivalent to a legislative determination in advance that under no circumstances can a plaintiff disclose a threatened irreparable injury without adequate remedy at law demanding immediate equitable intervention. If the Congress undertakes arbitrarily to determine in advance what a suitor would otherwise be entitled to as due process of law in a court of equity, we believe he would be deprived of a guaranteed constitutional right.

The first section of the bill, with one material exception, is almost an exact copy of a bill introduced in the Sixty-first Congress, known as the Moon bill. This bill was reintroduced in the present Congress, and was supported by the entire Republican membership of the Judiciary Committee.

The exception referred to has reference to the provision for the expiration of a restraining order granted by the court without notice. The Moon bill provided that the order should expire "within such time after service is made or notice given, which shall be made or given as speedily as possible, not to exceed seven days, as the judge or court shall fix." The proposed bill provides that "it shall expire at such time after entry as the court or judge shall fix, not to exceed seven days," etc.

A restraining order is of no effect until served, and under such a provision it would be only necessary for those having knowledge of the application to avoid service for seven days after the issuance of the order to defeat its purpose. We can conceive circumstances in which a few who might be served would notify other defendants to avoid it and on failure to make the order effective by service within seven days it would be necessary to give notice to all previously served before an extension of further time could be had. We can conceive of no more certain method of depriving a suitor of essential equitable protection. Many judicial districts of our country administer justice

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over vast areas in which the material circumstances of life must be taken into consideration. The proposal of this section is general. It applies to all forms of litigation, and in view of the physical as well as the personal difficulties attending the service of restraining orders under some circumstances we can not but believe that not only would many individual suitors suffer grievous injury, but we can from our public service and professional experience conceive many circumstances in which the public interest would be seriously jeopardized. All of these difficulties would be overcome if the restraining order should date from the time of service instead of the time of its entry.

II.

Section 266A provides that no restraining or interlocutory order shall issue except upon the giving of security against cost or damage.

Under the present practice this is within the discretion of the court, and while we should not be disposed to disagree with such a suggestion, we must again note that no reason is given for the suggested change which implies a failure upon the part of the courts to properly exercise this discretion. No evidence to this effect has been at any time submitted to the committee, nor do the majority offer any evidence to that effect as a reason for their action.

III.

Section 266B requires every restraining order or every injunctive order "to set forth the reasons for the issuance of the same to be specific in terms and describe in reasonable detail, and not by reference to the bill of complaint or other document the act or acts sought to be restrained;" it binds only the parties to the suit, "their agents, servants, employees, and attorneys or those in active concert with them, and who shall by personal services or otherwise have received actual notice of the same." This section is of general application. In support of this provision the majority point out that it is to be a safeguard against "dragnet or blanket injunctions," by which parties may be punished for contempt after "only constructive notice, equivalent in most cases to none at all."

Again, the majority asserts conditions as a basis for proposed legislation which are both unproven and unprovable. Nothing is clearer in the field of jurisprudence than the requirement that a respondent on a contempt charge must have actual notice of the existence of an order which he is accused of violating and that the order must have been unmistakably brought to his attention. (Bessette *v.* Conkey, 194 U. S.) All the Debbs cases, both in the circuit and district courts and on appeal, actually confirm this statement. The majority offer in proof of the necessity of their proposal merely an implication unwarrantedly reflecting upon the judiciary and without supporting proof of any character.

They have, moreover, properly provided in section 266 that every restraining order issued shall be accompanied by an entry stating the reasons for its issuance. It would be a useless waste of time to again set forth the reasons for the issuance of the order in the order itself, as is required by section 266B. Complaints are heard on every side against cumbersome and delaying procedure. This proposal multi-

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plies the delays, difficulties, and inconveniences of procedure indefinitely. It requires every order to be a history, to repeat in irrelevant and cumbersome detail all the preliminary pleadings, and instead of enlightening the parties against whom it was issued the form suggested and the procedure prescribed would increase his confusion and doubt.

The majority point out that there is "no Federal statute to govern either the matter of making or form and contents of orders in injunctions," thereby inferring that this entire matter is left to the discretion or judgment of the judge granting the injunction. In this statement they entirely overlook the rules in equity of the Supreme Court of the United States binding upon all inferior Federal courts, prescribing with great minuteness and changed from time to time in accordance with the teaching of experience the forms of injunctive orders and forbidding the ceaseless repetition in decrees and orders of the contents of bills of complaint.

The effect of section 266B is to abolish the many rules in equity of the Supreme Court in conflict with it, representing the professional experience of a century, and amended from time to time to shorten procedure, increase the convenience, and protect the rights of litigants in the courts of the United States. The majority says section 266 does not change the best practice with respect to orders, but imposes the duty upon the courts in mandatory form to conform to correct rules as already established by judicial precedent. We respectfully submit that the equity rules of the Supreme Court express correct judicial precedents and that the majority have apparently overlooked this important fact.

The bill as reported would withdraw the application of the restraining order from parties not named in it and not in agreement with the parties named who may on their own initiative undertake its violation. Such cases are not uncommon. If the majority intend to exempt such violations of the order, they have created an unusual and remarkably privileged class of lawbreakers; if not, we are unable to discern the intention expressed in the limitation "in active concert with them."

IV.

The two paragraphs of section 266C must be read in connection with each other or their purpose and meaning are lost. The first paragraph provides that no judge or court of the United States shall issue any restraining order or injunction "in any case between an employer and employees, or between employers and employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning the terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right," etc. If this section is intended to withdraw civil rights from equitable protection in this class of cases, we must disapprove it as an evident effort to deny such protection as is given to civil rights in all other classes of cases, since it is axiomatic that it is the office of equity to protect by injunction, under proper circumstances, civil and even personal as well as property rights. We object to the implication contained in emphasizing controversies between employers and employees, or between employees or persons employed and seeking employment, and if the majority intends by

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this to indicate that such rights are to have less or different protection from the same rights when involving controversies of another kind we must emphatically disagree with the principle implied, for in this country remedies are to be predicated at all times upon the character of the rights which are threatened, and not upon the class or nature of the persons involved in the controversy.

We do not comment upon the many cases cited by the learned members of the majority in support of their views upon equity pleadings in this connection. We quite agree with the correctness of such decisions, but we draw from them quite a different conclusion from that implied by the majority. We think they prove what the majority evidently adduces them to disprove. To us they are evidence that the pleadings required with such particularity in the special class of cases involved in section 266C are required generally in all applications for equitable intervention. The majority are thus seen to be offering as proof of the need of special legislation for pleadings in a particular class of cases the fact that the courts have substantially required such conditions and pleadings in all classes of cases of which the kind enumerated are a part.

The second paragraph of section 266C contains to our mind the most vicious proposal of the whole bill. It enumerates certain specific acts and provides that no restraining order or injunction shall prohibit the doing of them. Most of the acts thus recited are in themselves not amenable to the injunction process under existing law and practice. No court does or would enjoin them, but to declare by law that these acts should under no circumstances be restrained, we do not hesitate to say is a proposal without precedent in the legislative history of this country. No legislature has ever proposed that any act however innocent itself should be sanctified irrespective of the motive or purpose of the actor. "No conduct," says Mr. Justice Holmes in Aiken *v.* Wisconsin (195 U. S., 194), "has such an absolute privilege as to justify all possible schemes of which it may be a part. The most innocent and constitutionally protected of acts or omissions may be made a step in a criminal plot, and if it is a step in a plot, neither its innocence nor the Constitution is sufficient to prevent the punishment of the plot by law."

The majority have quoted various decisions in which particular acts under the pleadings presented to the court were held lawful and their prohibition denied. The same acts under other circumstances have been held unlawful and enjoined by the very courts, and in the course of the very decisions which the majority cites. Thus, in Arthur *v.* Oakes (63 Fed. Rep., 310), Mr. Justice Harlan is quoted to sustain the proposition that no man can by injunction be required to perform personal service for another, and in that decision Justice Harlan eliminated from the injunction the words "and from so quitting the service of the said receivers with or without notice as to cripple the property or prevent or hinder the operation of said railroad." The majority must observe, however, that Mr. Justice Harlan likewise held, "But different considerations must control in respect to the words in the same paragraph of the writs of injunction, and from combining and conspiring to quit with or without notice the service of said receivers with the object and intention of crippling the property in their custody or embarrassing the operation of said railroad." Thus, the same act of quitting is lawful under one set of circumstances and unlawful under another, because the concerted

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action in the first instance, in the opinion of Mr. Justice Harlan, "is a very different matter from a combination and conspiracy among employees with the object and intent, not simply of quitting the service of the receivers because of the reduction of wages, but of crippling the property in their hands and embarrassing the operation of the railroad."

The majority undertakes to prescribe a set rule forbidding under any circumstances the enjoining of certain acts which may or may not be actuated by a malicious motive or be done for the purpose of working an unlawful injury or interfering with constitutional rights of employer or employee. In the same opinion Mr. Justice Harlan points out the impossibility of prescribing a set rule of this character and says, "The authorities all agree that a court of equity should not hesitate to use its power when the circumstances of the particular case in hand require it to be done in order to protect rights of property against irreparable damage by wrong doers. It is as Justice Story said, 'because of the varying circumstances of cases that courts of equity constantly decline to lay down any rule which shall limit their power and discretion as to the particular cases in which such injunction shall be granted or withheld,'" and the authority proceeds, "there is wisdom in this course, for it is impossible to foresee all the exigencies of society which may require their aid and assistance to protect rights or redress wrongs. The jurisdiction of these courts thus operating by special injunction is manifestly indispensable for the purposes of social justice in a great variety of cases and therefore should be fostered and upheld by a steady confidence." (Story, Equity Jurisprudence, sec. 959B; Arthur *v.* Oakes, 63 Fed., 328.)

Among the acts which the second paragraph of section 266C declares shall not be restrained is to prohibit any person or persons to terminate any relation of employemnt, or from ceasing to perform any work or labor or from recommending or persuading others by peaceful means so to do; of peacefully persuading any person to work or to abstain from working, or from ceasing to patronize or employ any party to such dispute or from recommending, advising, or persuading others by peaceful means so to do"; etc.

While many of these acts are in themselves entirely harmless and would never be enjoined by any court, yet under certain circumstances the same acts might become a weapon of lawless and destructive industrial warfare demanding the protection of the courts, this section would prevent the issuance of the injunction in the Debs case (In re Debs, 158 U. S., 564); it would prevent the issuance of the injunction in Toledo & Ann Arbor *v.* Pennsylvania Co. (54 Fed., 730); it would prevent the issuance of any injunction to restrain either workmen or employers who were the objects of the most vicious form of boycott that has been passed upon by the courts, or can be devised by the ingenuity of boycotters. It changes the remedies by which the Sherman Act may be enforced, inasmuch as if any of these acts enumerated in section 266C were the means employed to enforce the restraint of trade or to damage the interstate business of any individual or corporation no injunction could be obtained either by a private individual or by the Government against such acts.

In the Debs case, a combination sought to paralyze the railroads of the United States and prevent the carrying of the mail until the railroad companies would agree not to haul Pullman cars because of a controversy between the Pullman Co. and certain of its employees

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who were not in the employ nor in any way related to the railroad companies. It is true there were acts of violence, but the general scheme was one of persuading all employees of the railroad companies to quit until the demands of the boycotters and strikers had been complied with. In the Toledo & Ann Arbor case the famous rule 12 of the brotherhood provided that none of its members should handle the cars of any carrier with which members of the brotherhood were in a dispute. In that case the brotherhood employees of the Pennsylvania refused to handle cars of the Toledo & Ann Arbor because of a dispute between that road and some of the brotherhood, and they threatened to quit the service of the Pennsylvania road unless it agreed to violate the provisions of the interstate-commerce act by not affording equal facilities to the cars of another road. No violence was threatened. The brotherhood merely undertook to "peacefully persuade" the Pennsylvania Co. not to handle the cars of the other road under a threat of leaving their service—a thing which they had a perfect right to do to better their own condition, but not for the purpose of compelling the Pennsylvania Railroad Co. to violate the law.

The majority report quotes at length from the case of Pickett *v.* Walsh (192 Mass., 572), "and regret the necessity of limiting the quotations, because the whole opinion could be studied with profit." We agree with the majority that the whole opinion could have been studied with profit, since it condemns forms of "peaceful persuasion" from which the majority would withdraw equitable intervention. Speaking of the case before it, it says: "It is a refusal to work for A, with whom the strikers have no dispute, because A works for B, with whom the strikers have a dispute, for the purpose of forcing A to force B to yield to the strikers' demands. * * * It is a combination by the union to obtain a decision in their favor by forcing other persons who have no interest in the dispute to force the employer to decide the dispute in their favor. Such a strike is an interference with the right of the plaintiffs to pursue their calling as they think best. In our opinion organized labor's right to coercion or compulsion is limited to strikes against the persons with whom the person has a trade dispute; or, to put it in another way, we are of the opinion that a strike against A, with whom the strikers have no trade dispute, to compel A to force B to the strikers' demands is unjustifiable interference with the right of A to carry on his calling as he thinks best. Only two cases to the contrary have come to our attention, namely, Bohn Manufacturing Co. *v.* Hollis (54 Minn., 223) and Jeans Clothing Co. *v.* Watson (168 Mo., 133)."

This case which the majority believe could be "studied with profit" is squarely against the proposal of their bill, and the two cases alluded to as being the only ones known to the court contrary to such view, for both have been overruled. Bohm Manufacturing Co. (54 Minn., 223) was overruled in Gray *v.* Building Trades Council (91 Minn., 171). The second case is alluded to by the majority of the committee in support of its contentions and the majority declare the logic of the court in that case "appears unanswerable." This "unanswerable" logic was overruled by the Supreme Court of Missouri in Lohse Patent Door Co. *v.* Fuel (215 Mo., 421).

The majority report also quotes in support of their contention from Vagelahm *v.* Gunter (167 Mass., 92), saying, "Justice Holmes, now of the Supreme Court of the United States, delivered the opinion." The opinion was delivered by Mr. Justice Allen and is squarely against

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the contention of the majority, Mr. Justice Holmes having delivered a dissenting opinion in which he stood alone. The majority have been driven to the necessity of quoting from other dissenting opinions in support of their opposition, and to these we do not deem it necessary to give attention.

It is said by the majority that no question of constitutionality is involved. We submit that if the measure is to be construed, as it evidently is, to prevent the application of injunctive relief to certain acts in disputes between employer and employee which may be part of a scheme or plan to work irreparable injury, which acts could be enjoined in any other department of litigation, it is obvious that the parties affected would be denied the equal protection of the law and due process of law, coming well within the rule laid down in Connelly *v.* The Union Sewer Pipe Co. (184 U. S., 540); Goldberg *v.* Stablemen's Union (149 Cal., 429); Pierce *v.* Stablemen's Union (156 Cal., 70); and Niagara Fire Insurance Co. *v.* Cornell (110 Fed. 816).

We do not consider the English act of 1906, which is quoted by the majority as a precedent for some of its proposals. There is no parallel whatever between the conditions at which the English act is aimed and the fundamental restrictions of the organic law of this country having no similitude in the constitution of the British Empire. The peculiar privileges conferred upon trades-unions by the English act of 1906 are accompanied by disabilities and criminal provisions of so drastic a nature that if they were offered as any part of the legislation of this country we should deem it our duty to oppose them in the interest of all workingmen.

We agree with the majority that "liberty and more of it is safe in the hands of the workingmen of the country." We are convinced of the merit and truth of that contention. We do not, however, believe that liberty is advanced in the person of any citizen by stripping him of remedial protection through processes which have received the deliberate and mature approval of the English-speaking race during all the centuries of its history. We can not believe that the due protection of person and property under constitutional guaranties and by remedies tested by time is "an impediment to progress," or that the destruction of the essential remedies by which person and property receive protection is "a great social advance." We believe with the President of the United States, in a famous statement made by him many years since to the American Bar Association, "It will not be surprising if the storm of abuse heaped upon the Federal courts and the political strength of Federal groups, whose plans of social reforms have met obstructions in these tribunals, shall lead to serious efforts, through legislation, to cut down their jurisdiction and cripple their efficiency. If this comes, then the responsibility for its effects, whether good or bad, must be not only with those who urge the change, but also with those who do not strive to resist its coming." (Address to American Bar Association at Detroit, 1895.)

JOHN A. STERLING.
R. O. MOON.
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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 613.

PROCEDURE IN CONTEMPT CASES.

APRIL 26 (calendar day, APRIL 27), 1912.—Referred to the House Calendar and ordered to be printed.

Mr. CLAYTON, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 22591.]

The Committee on the Judiciary, having had under consideration H. R. 22591, to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, report the same back with the recommendation that the bill do pass.

The bill leaves section 268 of the judicial code, formerly section 725 of the Revised Statutes, in full force and inserts five new sections, none of whose provisions conflict with said section 268.

ANALYSIS OF BILL.

By section 268a, in such cases of contempt specified in section 268 as constitute a criminal offense under any statute of the United States or at common law, the proceedings against the accused party shall be "as hereinafter provided"; that is, in the subsequent section of the bill.

Most of the important provisions of the bill are contained in section 268b. Before action by the court, except in the cases excepted from the operation of the bill, there must be presented a formal charge showing reasonable ground; and before the party is put upon trial he must be afforded an opportunity to purge himself of any actual or technical contempt which he may have committed. He can not be arrested until he has opportunity to either purge himself or make answer and has refused to do either. If arrested, or in case the matter can not be disposed of on the return day, he may be required to give bail.

The trial is by the court (1) in case no jury be demanded by the accused, (2) if the contempt be in the presence of the court or so near thereto as to obstruct the administration of justice, or (3) if

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the contempt be charged to be in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name or on behalf of the United States. In other cases the trial is to be by jury.

Section 268c provides for the preservation of bills of exception, for review upon writ of error, for stay of execution pending proceeding, for review, and for bail in case the accused shall have been sentenced to imprisonment.

Section 268d excepts from the operation of the act contempts in the presence of the court, or so near thereto as to obstruct the administration of justice, and contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, and provides that in the excepted cases as well as in all other cases not specifically embraced within section 268a, the punishment shall be in conformity to the usages at law and in equity now prevailing.

Section 268e bars proceedings for contempt unless begun within one year from the date of the act complained of, and preserves the right of criminal prosecution, notwithstanding any proceeding and punishment for the contempts covered by the bill. It also excepts from the provisions of the bill any proceedings for contempt pending at the time of its passage.

Thus it is seen that the bill applies and gives a jury trial, with the exception noted, in all proceedings for contempt wherein the acts alleged to have been committed constitute a criminal offense, either under any Federal statute or at common law. The trial where a jury is had, is governed (sec. 268b), as near as is practicable, by the practice in criminal cases prosecuted by indictment or upon information.

Before calling further attention to the provisions of the bill now reported it is appropriate to review some of the contentions of those who have opposed every form of legislation whatever on this subject.

OBJECTIONS ANSWERED.

All the grounds of objection are reducible to two heads:

First. That any legislation whatever materially limiting or curtailing the power of the courts in the trial of contempts is unconstitutional.

Second. That any interference with the full and complete dominion or discretion of the judge in contempt cases tends to disorganization and a weakening of judicial efficiency.

Let us consider first the constitutional objections.

It is said that although the courts inferior to the Supreme Court owe their existence and jurisdiction to congressional action, yet a distinction should be made between the jurisdiction and judicial power, for instance, in the citation, trial, and punishment of a party charged with contempt of court.

The controversy goes back over 60 years. In 1831 Congress passed an act limiting the power of the courts subjectively; that is to say, it lopped off some of the jurisdiction which the court had assumed and exercised—a jurisdiction, or power, if the latter term be pre-

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ferred, which Congress believed, and by its legislation asserted, was a usurpation. Never, until within a very recent period, was the authority of Congress to do that questioned, either by the courts or by any respectable authority. The particular circumstance or event, instigating the act of 1831, was the punishment by Judge Peck in Missouri, as for a contempt of court, of a party who had criticized one of his decisions in the columns of a newspaper.

The law before the act of 1831 read thus:

The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority.

The act of 1831 consisted in the addition of a proviso, reading as follows:

Provided, That such power to punish contempt shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said court in their official transactions, and the disobedience or resistance by any officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the said court.

The extensive scope of this amendatory statute has been generally overlooked. The Federal courts were assuming and exercising the unlimited and unchecked powers resorted to by common-law courts, of deciding for themselves, not only the mode of procedure and degree and amount of punishment, but of selecting for themselves particular acts of alleged misconduct which should be placed in the category of contempts. Congress treated the term "power" as synonymous with "jurisdiction," circumscribed the field of jurisdiction, specified the acts which should constitute contempts, and said that such power or jurisdiction shall not extend beyond these specified acts.

It has been suggested that Congress might have refused to create the inferior courts, or even the Supreme Court, and have thus caused the failure of the Government.

But it is said that when Congress has acted and established a Federal court the common-law and equity powers of the courts immediately flow into these judicial receptacles out of the Constitution. It is only necessary to examine this new doctrine to know to what absurdities it would lead. The common-law courts of England, with the King's bench at their head, in addition to administering statutory law and the common law proper, exercised certain parliamentary powers. In the English system the legislative and judicial departments were, and are, entirely independent of each other. It is true that the courts were bound by acts of Parliament as construed by them, but outside the statutes their powers were as free from limitation as those of Parliament itself. They were the exponents and final arbiters of public policy for the Kingdom.

Though it is often said that the three departments of our Government are separate and independent, which is true in the sense that they must not invade each other's constitutional domain, and thus destroy each other, yet it is also true that arbitrary unchecked power does not abide with either of them. As the Supreme Court has well expressed it, in Yick Wo *v.* Hopkins (118 U. S. Rep., 369):

When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history

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of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.

To concede that the courts might, even with the limits fixed in the act of 1831, exclusively decide when a contempt has been committed, and the amount or degree of punishment, with no power in Congress to set a limit thereto, would be to concede to the courts the power to annul every act of Congress, to paralyze the Executive arm, to confiscate all property, and destroy all liberty. Of course, few, if any, believe that the courts would ever proceed to such extremes, but it is sufficient to say that, according to our interpretation, the framers of the Constitution took care to safeguard the people against the possibilities of all such calamitous tendencies.

Referring to this bill, and comparing its provisions with the proviso added in 1831, it is seen that the bill only changes the procedure in contempt cases, while, as before stated, that proviso limited the jurisdiction subjectively.

The opposition was represented before the committee by able counsel and many authorities were cited, few of which, however, in our opinion, had any direct bearing on the question from a constitutional point of view. In fact, the power of Congress, as exhibited in the act of 1831, was so generally and uniformly conceded that not a single case has been found which ever questioned or doubted it. A few cases which, though not directly bearing upon the point of constitutionality, yet shed more or less light upon it will now be noticed.

It is argued that Congress can not require a court of equity to try issues of fact by jury. That is unquestionably sound doctrine, and the case of Brown *v.* Kalamazoo, Circuit Judge (87 Mich., 274), is sound law. But it is wholly inapplicable here. No one has thus far ever insisted that contempt is of equitable cognizance, or other than what the textbooks designated, namely, a special proceeding, criminal in its nature, not necessarily connected with any particular suit or action pending in the court.

Numerous State cases were cited in argument. They may all be answered as a class. The relation between Congress and Federal courts is not the same as that between State legislature and the State courts. The constitutions of the various States themselves provide for and establish the court, partition the powers of government between the legislative, executive, and judicial departments, prescribing safeguards, and defining their powers in detail; whereas the Federal Constitution has delegated full and complete control of the matter to Congress. Nor should the fact be overlooked that the State decisions on the subject are often based upon precedents of the common law, which is no part of the Federal system. Thus, in Ex parte McCowan (139 N. Car., 95), that being typical of many such cases relied upon, it was said:

We are satisfied that at common law the acts and conduct of the petitioner, as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state.

In Finck *v.* O'Neill (106 U. S. Rep., 272) it appeared that Congress has taken from the court all power to enforce its judgment,

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and the act of Congress was upheld by the Supreme Court of the United States. In that case (p. 280) the court said:

The United States can not enforce the collection of a debt from an unwilling debtor, except by judicial process. They must bring a suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the law confers and limits it.

And in Cary *v.* Curtiss (3 How., 236, 254) the same court said:

The courts of the United States are all limited in their nature and constitutions, and have not the powers inherent in courts existing by prescription, or by the common law.

But in section 720, of the Revised Statutes, we have a statute of Congress prohibiting the Federal courts from issuing injunctions in certain cases, and the constitutional validity of that statute was declared in Sharon *v.* Terry (36 Fed. R., 365). Now, the writ of injunction is the arm of the Federal courts in the exercise of their equitable powers, which it has been urged enjoy complete immunity from congressional action. And here a Federal circuit court sustained an act of Congress which substracted an important part of equitable jurisdiction. Anyone taking the trouble to examine the judiciary act of 1789, with or without subsequent additions and amendments, will observe that it consists, in large part, of regulations of and limitations upon jurisdiction.

We close this head with the quotation from Ex parte Robinson (19 Wall., 505), cited with approval in the case of Bessette *v.* Conkey (194 U. S., 327), which is so clearly and obviously applicable and conclusive that no comment appears to be necessary:

The power to punish for contempts is inherent in all courts. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power, but the power has been limited and defined by the act of Congress of March 3, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and power from the Constitution, may, perhaps, be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases.

(1) Where there has been misbehavior of a person in the presence of the courts, or so near thereto as to obstruct the administration of justice.

(2) Where there has been misbehavior of any officer of the courts in his official transaction.

(3) Where there has been disobedience or resistance by an officer, party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of the courts. The law happily prescribes the punishment which the courts can impose for contempts. The seventeenth section of the judiciary act of 1789 (1 Stat. L., 73), declares that the court shall have power to punish of their authority in any cause or hearing before them by fine or imprisonment, at their discretion. The enactment is a limitation upon the manner in which the power shall be exercised, and must be held to be a negation of all other modes of punishment. The judgment of the court debarring the petitioner, treated as a punishment for contempt, was therefore unauthorized and void.

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As to the other ground of objection urged—that is, that any interference with the full and complete dominion and discretion of the courts tends to disorganization and to the weakening of judicial authority—judging by the course of previous discussion on this measure, it is not anticipated that the policy of the provision placing a limitation upon the punishment which can be inflicted will be strenuously criticized, and, therefore, we will make no further comment on that.

TRIAL BY JURY.

The feature of the bill against which the most strenuous argument has been directed is that providing for jury trials. But no one has shown that such provision amounts to anything more than a change of procedure. So that the question comes down to this, Has Congress or not the power to prescribe procedure? The courts will still, if this bill passes, have all the substantive power left in their hands by the act of 1831. Not one of the acts there catalogued will have been eliminated. The method of ascertaining the facts in certain cases is changed, but their ascertainment is still under supervision of the court, and ample safeguards are provided against evasions and miscarriages of justice.

A contemnor, from the moment the facts are judicially ascertained, is, by uniform practice, either placed in durance or required to give bail. The result of an adverse judgment is always penal, both in form and effect, though the fine be sometimes turned over to a private litigant.

The manner of disposing of the fine does not alter, in any respect, the form and effect of the procedure, or change it from criminal to civil.

SUCH LEGISLATION LONG DEMANDED.

The bill is an evolution from prolonged and varied discussion, by no means limited to a recent date or to the present Congress. Every feature and provision of it has been subjected to attack and defense, but the whole controversy appears to have at length converged upon the issue of whether or not the policy and practice of jury trial in contempt cases shall be admitted in the Federal jurisprudence at all.

That complaints have been made and irritation has arisen out of the trial of persons charged with contempt in the Federal courts is a matter of general and common knowledge. The charge most commonly made is that the courts, under the equity power, have invaded the criminal domain, and under the guise of trials for contempt have really convicted persons of substantive crimes for which, if indicted, they would have had a constitutional right to be tried by jury. It has been the purpose of your committee in this bill to meet this complaint, believing it to be a sound public policy so to adjust the processes of the courts as to disarm any legitimate criticism; and your committee confidently believes that, so far from weakening the power and effectiveness of Federal courts, this bill will remove a cause of just complaint and promote that popular affection and respect which is in the last resolve the true support of every form of governmental activity.

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ACTS OF CONGRESS RELATING TO CONTEMPTS.

Statutes at Large, vol. 1, First Congress, first session, chapter 20:

AN ACT To establish the Judicial Courts of the United States, approved September 24, 1789.

SEC. 17. *And be it further enacted*, That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; (*a*) and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; (*b*) and to make and establish all necessary rules for the orderly conducting of business in the said courts, provided such rules are not repugnant to the laws of the United States. (This section at page 83; letters in parentheses refer to notes at the bottom of the page.)

Act of March 2, 1831, upon which sections 725, 5399, 5404, 5405, and 5406, Revised Statutes, above quoted, is based, was as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

SEC. 2. *And be it further enacted*, That if any person or persons shall, corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct, impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offense.

Approved, March 2, 1831.

Section 725 Revised Statutes United States (1878):

SEC. 725. The said courts shall have power to impose and administer all necessary oaths and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any case except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person, to any lawful writ, process, order, rule, decree, or command of said courts. (Stat. L., vol. 4, p. 487, 21st Cong., 2d sess., chap. 99, "An act declaratory of the law concerning contempts of court," approved Mar. 2, 1831.)

NOTE.—Section 725 of the Revised Statutes is reenacted by section 268 of the Judicial Code, effective January 1, 1912, and section 725 is repealed by section 297 of the same code.

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Section 268 of the Judicial Code (1912):

SEC. 268. The said courts shall have power to impose and administer all necessary oaths, and to punish, by fine or imprisonment, at the discretion of the court, contempts of their authority: *Provided*, That such power to punish contempts shall not be construed to extend to any cases except the misbehavior of any person in their presence, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of said courts, in their official transactions, and the disobedience or resistance by any such officer, or by any party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the said courts. (Rev. Stats., sec. 725, 1878.)

Section 5399, Revised Statutes United States (1878):

SEC. 5399. Every person who corruptly, or by threats or force, endeavors to influence, intimidate, or impede any witness, or officer, in any court of the United States, in the discharge of his duty, or corruptly, or by threats or force, obstructs or impedes, or endeavors to obstruct or impede, the due administration of justice therein, shall be punished by a fine of not more than five hundred dollars, or by imprisonment not more than three months, or both. (Stat. L., vol. 4, p. 488; act approved Mar. 2, 1831.)

Section 5404, Revised Statutes United States (1878):

SEC. 5404. Every person who corruptly, or by threats or force, or by threatening letters, or any threatening communications, endeavors to influence, intimidate, or impede any grand or petit juror of any court of the United States in the discharge of his duty, or who corruptly, or by threats or force, or by threatening letters, or any threatening communications, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice therein, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment not more than one year, or by both such fine and imprisonment. (Stat. L., chap. 420, vol. 17, p. 378; act of June 10, 1872.)

Section 5405, Revised Statutes United States (1878):

SEC. 5405. Every person who attempts to influence the action or decision of any grand or petit juror upon any issue or matter pending before such juror or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any letter or any communication in print or writing in relation to such issue or matter, without the order previously obtained of the court before which the juror is summoned, shall be punishable by a fine of not more than one thousand dollars or by imprisonment not more than six months, or by both such fine and imprisonment. (Stat. L., vol. 17, p. 378, chap. 420, act of June 10, 1872.)

Section 5406, Revised Statutes United States (1878):

SEC. 5406. If two or more persons in any State or Territory conspire to deter by force, intimidation, or threat any party or witness in any court of the United States from attending such court or from testifying to any matter pending therein freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror, each of such persons shall be punished by a fine of not less than five hundred, nor more than five thousand dollars, or by imprisonment with or without hard labor not less than six months nor more than six years, or by both such fine and imprisonment. (Stat. L., vol. 17, p. 13, Apr. 20, 1871.)

NOTE.—Sections 5399, 5404, 5405, and 5406 of the Revised Statutes are repealed by section 341 and reenacted by sections 135, 136, and 137 of the Criminal Code, effective January 1, 1910.

Section 135, Criminal Code (1910):

SEC. 135. Whoever corruptly, or by threats or force, or by any threatening letter or communication, shall endeavor to influence, intimidate, or impede any witness in any court of the United States, or before any United States commissioner or officer acting as such commissioner, or any grand or petit juror

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or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or officer acting as such commissioner, in the discharge of his duty, or who corruptly or by threats or force, or by any threatening letter or threatening communication, shall influence, obstruct, or impede, or endeavor to influence, obstruct, or impede the due administration of justice therein, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both. (Rev. Stats., secs. 5399, 5404.)

Section 136, Criminal Code (1910):

SEC. 136. If two or more persons conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States, or in any examination before a United States commissioner or officer acting as such commissioner, from attending such court or examination, or from testifying to any matter pending therein, freely, fully, and truthfully, or injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or on account of his being or having been such juror, each of such persons shall be fined not more than five thousand dollars or imprisoned not more than six years, or both. Rev. Stats., sec. 5406.)

Section 137, Criminal Code (1910):

SEC. 137. Whoever shall attempt to influence the action or decision of any grand or petit juror of any court of the United States, upon any issue or matter pending before such juror, or before the jury of which he is a member, or pertaining to his duties, by writing or sending to him any letter or any communication, in print or writing, in relation to such issue or matter, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both. (Rev. Stats., sec. 5405.)

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THE BILL.

[H. R. 22591, Sixty-second Congress, second session.]

IN THE HOUSE OF REPRESENTATIVES, MARCH 29, 1912.

Mr. CLAYTON introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL To amend an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended by inserting after section 268 thereof five new sections, to be numbered, respectively, 268 a, 268 b, 268 c, 268 d, and 268 e, reading as follows:

"SEC. 268 a. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing any act or thing therein or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 268 b. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the

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trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them, as the court may direct; but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of one thousand dollars, nor shall such imprisonment exceed the term of six months.

"SEC. 268 c. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States.

"SEC. 268 d. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 268 a of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 268 e. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

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PROCEDURE IN CONTEMPT CASES.

APRIL 29, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. STERLING, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 22591.]

We, the undersigned, members of the Committee on the Judiciary, do not agree with the action of the committee on the bill (H. R. 21100) entitled "An act to amend an act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

The effect of the bill is to take from the courts the right to determine the guilt or innocence of one charged with contempt in certain cases and submit that question to a jury. If its provisions were put into actual practice it would greatly impair and might in some instances, we fear, totally destroy the power of the court to enforce its orders and decrees and maintain the peace of society.

We know of no necessity for the erratic and radical legislation provided for in this bill. He who would depart from long-established principles and usages should be able to give some reason therefor. He should be able to offer something better or show wherein abuses would be corrected or evils avoided by the departure. The proponents of this bill have failed to do either.

The committee has had extended hearings on this bill. Nowhere has it been made to appear to the committee that there has been any general abuse of the power of the courts to punish for contempt, nor has specific instances been shown where persons were wronged by the exercise of that power which this bill seeks to take from the court and lodge in another tribunal.

We desire to view this bill in three aspects: First, as to some of its provisions in detail; second, as to its constitutionality; and, third, as to whether it is desirable legislation on the ground of public policy.

Even though it were desirable to try any questions of contempt by a jury there can be no possible reason why those cases set apart by this bill to be dealt with in that way should be so distinguished from all others. It is important that all contempts should be punished with certainty and as summarily as possible consistent with justice.

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This is necessary in order to maintain the authority of the court and to secure to it that respect to which it is entitled. This is especially true where the acts constituting the contempt are acts of violence or where they constitute a crime. It is this class of contempts which this bill precludes from certain and summary punishment and no others. It provides that any act of disobedience to the law constituting contempt shall be tried by the jury if the act of disobedience also amounts to a crime, but it leaves the lesser offense of contempt not constituting crime to be punished summarily by the court. Punishment for violence in any form should be as certain and swift as is possible consistent with justice, and particularly so when that violence resists the execution of the processes and orders of the courts and the due course of justice. What reason can one assign for giving to the man who commits a crime in resistance to an order or process of court the right of trial by jury and denying it to the man who resists it by peaceful methods? The proponents of this bill have never here or elsewhere assigned any reason for the unjust and unfair distinction. As a concrete illustration of the working of such a law let us suppose a case. An officer of the law in the performance of his sworn duty seeks to serve one with a summons to attend court as a witness or juror, but is prevented from doing so by being assaulted and beaten. That offender is guilty of contempt by the commission of violence on an officer amounting to a crime, and under the provisions of this bill he is entitled to have his case of contempt taken away from the court whose authority he has violated and submitted to a jury, with all the delays and uncertainties incident to such practice.

In another case the officer serves one with a summons to attend as a witness or juror without molestation and makes due return to the court. But this man simply disobeys the order of the court by failure or refusal to attend, and he is denied the right of trial by jury and must submit to the summary determination of his contempt by the court whose order he disobeys. Thus, the graver offender, the one who defies the court and resists its authority by violence and crime, is given the right of trial by jury, if he demands it, while the lesser offender who simply fails or refuses to obey the order of the court is denied that right.

But even a graver injustice must inevitably flow from this invidious classification of contempts than that. The bill provides that trial by jury for contempt shall conform as nearly as may be to the practice in criminal cases prosecuted by indictment or upon information. Under that clause the court must apply the rules of evidence in criminal cases to that class of contempt cases which are submitted to a jury by this bill. It requires the court to instruct the jury that unless they believe from the evidence beyond all reasonable doubt that the accused is guilty of contempt he must be acquitted; and that if the acts of the accused can be explained on any other reasonable hypnothesis than that of guilt he must be found not guilty. But this favorable rule of evidence will only apply in the case of the graver offender who has defied the court by violence and intimidation and resisted its authority by the commission of crime. He, of all persons charged with contempt, is selected out to receive the benefit of any doubt, while the lesser offender, he who has passively disobeyed the order of the court, shall be convicted on a mere preponderance of the evidence. We believe in those rules of evidence

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which require strict proof, when liberty is at stake; but if they are made to apply to grave offenses in contempt cases, they should also be made to apply to slight offenses. We insist that if any distinction is to be made in this class of cases and in the degree of proof required, then the slight offender and not the grave offender should be favored in that distinction. This bill does the reverse.

Under this bill, prosecution for contempt would be subject to the delays and uncertainties incident to jury trials. This would be true in a measure even in law courts, of which the jury is a component part. Much of the time even these courts have no jury at hand. Under such conditions a jury must be drawn from the whole body of the people of the district, which would result in delay. The bill takes no account of a disagreement of the jury, or a failure to reach a verdict, and this would require the impaneling of another jury; and thus it will be seen that the authority of the court will be greatly weakened by delay and uncertainty, and the administration of justice greatly impeded by reason thereof.

It is very clear, however, that this bill is not intended, in its application, for contempt cases in the law courts. It aims at the courts of equity and seeks to impair their judicial power, by the intervention of a jury, to enforce their orders and decrees. This intervention of a jury in courts of equity, to determine questions of law and fact, is an innovation in practice unknown in the whole history of equity jurisprudence, and he who espouses it assumes the burden of showing it is a real reform and not a mere political exigency. Courts of equity have no jury nor the means of securing one. These courts grew up by reason of the very fact that they apply principles of justice and equity to the affairs of men which may be better administered by the chancellor than by a jury. They came as a necessity, to do justice in those cases where the rigid rules of law either wrought or permitted a hardship. This bill proposes to strip these courts of their true character as courts of equity and thus tie the hands of the chancellor in the administration of justice by the introduction of rules of practice which belong only to the courts of law.

It does violence to the experience of the centuries, that equity principles are best administered through the conscience of the chancellor. It is inconsistent, indeed it is folly, to confer upon courts of equity the judicial power to try and determine causes in equity and to then intervene between that court and the enforcement of its decrees another tribunal unknown to equity practice.

This bill contains one very remarkable exception. It makes a distinction between actions brought by or in the name of the United States and actions brought by persons. No reason has been assigned for this distinction, and we know of none. Section 268*d* provides:

> That nothing herein contained shall be construed to relate to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States.

It leaves contempts arising in this class of cases to be dealt with as they are now. If this bill provides good practice in contempts arising in suits between persons, why is it not good practice in suits to which the Government is a party? If it would be bad practice in cases where the Government is a party, it would be bad in cases between persons. There is no escape from this conclusion. There is

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no rational or sensible reason for eliminating Government suits from the operation of the law, except that it would interfere with the proper administration of justice by hampering the courts in the enforcement of their orders and decrees and maintaining their authority and their complete integrity as courts. We fully agree that this is a conclusive reason for not applying the bill to such cases. It is just as conclusive a reason why it should not apply to other cases. It condemns the whole bill. The exception suggests the thought that it is desired to do as little harm as possible to the proper administration of justice, but to do only such harm as the political exigencies of the situation require. We respectfully submit that this is not the true and proper basis on which legislation should be predicated.

We are of the opinion that the proposed law is in violation of the Constitution. Congress can not take from the courts those inherent powers necessary to their existence or so regulate the exercise of them as to seriously impair them.

The judicial power of the United States is conferred upon the Supreme Court and such inferior courts as Congress may ordain and establish, by the Constitution, and not by any act of Congress. The language of the Constitution is as follows:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as Congress may from time to time ordain and establish.

The Constitution made it the duty of Congress to create such courts as it deemed necessary, and the instant Congress had acted in the performance of its duty the judicial power vested in the courts thus created, by virtue of the Constitution.

Judicial power is the power to hear and determine causes in law and equity and to enforce the processes, orders, judgments, and decrees of the court. The power, too, to enforce its judgments and decrees are equally important as the power to hear and decide cases. A court without the power to enforce its orders would be a nullity and utterly powerless to administer justice. In the case of Kansas *v.* Colorado (206 U. S., p. 31), Mr. Justice Brewer discussed the constitutional grant of power to Congress and the courts as follows:

> In the Constitution are provisions in separate articles for the three great departments of Government—legislative, executive, and judicial. But there is this significant difference in the grants of powers to these departments: The first article, treating of legislative powers, does not make a general grant of legislative power. It reads:
>
> "All legislative powers herein granted shall be vested in a Congress," etc.
>
> And then, in Article VIII, it mentions and defines the legislative powers that are granted. By reason of the fact that there is no general grant of legislative power, it has become an accepted constitutional rule that this is a government of enumerated powers.
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> In McCulloch *v.* Maryland (4 Wheat., 405, 4 L. ed., 601) Chief Justice Marshall said:
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> "This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge. That principle is now universally admitted."
>
> On the other hand, in Article III, which treats of the judicial department—and this is important for our present consideration—we find that section 1 reads that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." By this is granted the entire judicial power of the Nation. Section 2, which provides that "the judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States," etc., is not a limitation nor an enumeration. It is a definite declaration—a provision that the judicial power shall extend to—that is, shall include—the several matters particularly mentioned, leaving unrestricted the general grant of the entire judicial power. There may be, of course, lim-

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itations on that grant of power, but, if there are any, they must be expressed, for otherwise the general grant would vest in the courts all the judicial power which the new Nation was capable of exercising. Construing this article in the early case of Chisholm *v.* Georgia (2 Dall., 419, 1 L. ed., 440) the court held that the judicial power of the Supreme Court extended to a suit brought against a State by a citizen of another State. In announcing his opinion in the case, Mr. Justice Wilson said (p. 453; L. ed., p. 454):

"This question, important in itself, will depend on others more important still, and may, perhaps, be ultimately resolved into one no less radical than this: Do the people of the United States form a nation?"

In reference to this question attention may, however, properly be called to Hans *v.* Louisiana (134 U. S., 1, 33 L. ed., 842, 10 Sup. Ct. Rep., 504).

The decision in Chisholm *v.* Georgia led to the adoption of the eleventh amendment to the Constitution, withdrawing from the judicial power of the United States every suit in law or equity commenced or prosecuted against one of the United States by citizens of another State or citizens or subjects of a foreign State. This amendment refers only to suits and actions by individuals, leaving undisturbed the jurisdiction over suits or actions by one State against another. As said by Chief Justice Marshall in Cohen *v.* Virginia (6 Wheat., 264, 407; 5 L. ed., 257, 291): "The amendment, therefore, extended to suits commenced or prosecuted by individuals, but not to those brought by States." See also South Dakota *v.* North Carolina (192 U. S., 286; 48 L. ed., 448; 24 Sup. Ct. Rep., 269).

Speaking generally, it may be observed that the judicial powers of a nation extends to all controversies justiciable in their nature, and the parties to which or the property involved in which may be reached by judicial process, and when the judicial power of the United States was vested in the Supreme and other courts, all the judicial power which the Nation was capable of exercising was vested in those tribunals; and unless there be some limitations expressed in the Constitution it must be held to embrace all controversies of a justiciable nature arising within the territorial limits of the Nation, no matter who may be the parties thereto. This general truth is not inconsistent with the decisions that no suit or action can be maintained against the Nation in any of its courts without its consent, for they only recognize the obvious truth that a nation is not, without its consent, subject to the controlling action of any of its instrumentalities or agencies. The creature can not rule the creator. (Kawananakoa *v.* Polyblank, 205 U. S., 349, ante, 834; 27 Sup. Ct. Rep., 526.) Nor is it inconsistent with the ruling in Wisconsin *v.* Pelican Insurance Co. (127 U. S., 265; 32 L. ed., 239; 8 Sup. Ct. Rep., 1370), that an original action can not be maintained in this court by one State to enforce its penal laws against a citizen of another State. That was no denial of the jurisdiction of the court, but a decision upon the merits of the claim of the State.

These considerations lead to the proposition that when a legislative power is claimed for the National Government the question is whether that power is one of those granted by the Constitution, either in terms or by necessary implication; whereas, in respect to judicial functions, the question is whether there be any limitations expressed in the Constitution on the general grant of national power.

We believe that all the courts, where the question has arisen, have held that the power to punish for disobedience of the court's orders and decrees and for resistance to its authority is an inherent power which may not be taken away or impaired by legislative enactment. In the case of Middlebrook *v.* State (43 Conn., p. 257), the court said:

The statute is not to be regarded as conferring the power to punish for contempts but merely as regulating an existing power. The power is inherent in all courts.

But independently of the statute, we think the power is inherent in all courts. The court of justice must of necessity have the power to preserve its own dignity and to protect itself.

The Legislature of Virginia passed an act very similar to the one proposed here, giving one accused of contempt of court a right of trial by jury. The courts of that State refused to recognize the power of the legislature to so regulate the powers of the court in contempt cases. In the Carter case in the 96 Virginia reports the court say:

Being of opinion that the defendant was guilty of contempt, we shall not attempt any classification of it as a direct or indirect contempt. If it were a direct contempt, then its punishment was without doubt to be ascertained and fixed by the court without the intervention of a jury by the terms of the law.

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It is incumbent upon us to consider whether it was within the power of the legislature to deprive the court of jurisdiction to punish it without the intervention of a jury.

In the courts created by the Constitution there is an inherent power of self-defense and self-preservation; that this power can be regulated, but can not be destroyed, or so far diminished as to be rendered ineffectual by legislative enactment; that it is a power necessarily resident in and to be exercised by the court itself, and that the vice of an act which seeks to deprive the court of this inherent power is not cured by providing for its exercise by a jury.

The Supreme Court of Michigan held the same doctrine in the case of Nichols *v.* Judge of Superior Court (130 Mich., 192), decided in 1902. The Constitution confers judicial power on the courts of that State in much the same language as that used in the Federal Constitution. In that case the court used this language:

The question, therefore, is again presented to this court, Have the circuit courts of this State the inherent power to punish for contempts, or are they subject to the control of the legislature? The question is an important one in the administration of the law. If the legislature can determine what acts shall constitute contempts in the circuit courts, it can abolish the power of such courts to punish for the contempts. There is no middle ground; either the courts have the absolute control, under the constitution, over contempt proceedings, or they have only such as the legislature may see fit to confer.

In Hale *v.* The State (55 Ohio St. Rep., 210) is another case in point:

In this case the inherent power to punish contempts and enforce orders of court by summary proceedings is fully sustained, and it is said of sections 6906 and 6907 of the Revised Statutes, which make certain acts formerly punishable as contempts now punishable by indictment as offenses against public justice, that if it is to be interpreted to take away from a constitutional court its inherent right to punish offenses of this character when they are contempts of court, the statute will be invalidated.

In Ex parte McCown (139 N. C.), decided in 1905, sections 648 to 657 of legislative act of 1871 were pleaded to prevent punishment for contempt. The court said:

We are satisfied that at common law the acts and conduct of the petitioner, as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeals the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void for reasons which we will now state.

The case of Callahan *v.* Judd (23 Wis., 343), has been cited often on the question as to whether the legislature has the power under the constitution to require courts of equity to employ a jury in their administration of the law. It is a well-considered case, and we quote from the opinion:

I think the act invalid, and my reasons are, briefly, as follows: The power to decide questions of fact in equity cases belonged to the chancellor just as much as the power to decide questions of law. It was an inherent part and one of the constituent elements of equitable jurisdiction. If, therefore, it shall appear that by the constitution the equitable jurisdiction existing in this State is vested in the courts, I think it will necessarily follow that it would not be competent for the legislature to divest him of any part of it and confer it upon juries. If they can do so as to a part, I do not see why they may not as to the whole. If they can say that in an equity case no court shall render any judgment except upon the verdict of a jury upon questions of fact, I can see no reason why they may not say that a jury shall also be allowed to decide questions of law.

But the constitution (sec. 2, art. 7) provides that "the judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts. * * *"

In order to determine the meaning of the phrase "judicial power as to matters of law and equity," it is only necessary to refer to the system of jurisprudence established in this country and derived from England, in which the court had certain well-

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defined powers in those two classes of cases. In actions of law they had the power of determining questions of law, and were required to submit questions of fact to a jury When the constitution, therefore, vested in certain courts judicial power in matters at law, this would be construed as vesting such power as the court, under the English and American systems of jurisprudence, had always exercised in that class of actions. It would not import that they were to decide questions of fact, because such was not the judicial power in such actions. And the constitution does not attempt to define judicial power in these matters, but speaks of it as a thing existing and understood. But, to remove all doubt in actions at law, the right of a trial by jury is expressly preserved by another provision.

But, as already stated, the power of a court of chancery to determine questions of fact as well as of law was equally well established and understood. And when the constitution vested in certain courts judicial power as to matters in equity, it clothed them with this power as one of the established elements of judicial power in equity, so that the legislature can not withdraw it and confer it upon juries. * * *

The plain object of this provision was to enable the legislature to distribute the jurisdiction in both matters at law and in equity as between the circuit courts and the other courts in the State, giving the circuit courts such original jurisdiction and such appellate jurisdiction as it might see fit. But the jurisdiction there intended was jurisdiction of the suit.

It may well be that the legislature may deprive the circuit courts of original jurisdiction in actions for the foreclosure of mortgages. It is unnecessary to determine whether it could or not. But it is quite certain that this clause contains no authority for it, while leaving those courts jurisdiction of this class of action, to attempt to withdraw from them an acknowledged part of the judicial power and vest it in the jury.

The Supreme Court of Oklahoma held an act of the legislature unconstitutional which required the courts to submit indirect contempts to a trial by jury. The following is the opinion of that court in the case of Smith *v.* Speed (11 Okla., 95):

If it now should be found that the judge had no power to enforce his order at all or to punish for contempt, and that the court had no power to punish beyond a fine of $50 and imprisonment not exceeding a longer period than 10 days in the county jail, and that a change of judge may be had and a change of venue from the county, and that a trial by jury may be had to determine whether the recalcitrant party is in contempt at all or not, it will be admitted by the bar, acquainted with the law's delays, that the power to punish for contempt, either direct or indirect, being destroyed in the judge, will be to a great extent destroyed also in the court and rendered valueless.

If the contention now sought for by the plaintiff in error should be sustained, it would go to the extent that the court, in equitable proceedings, after a full hearing and a final determination and judgment upon the merits, is without the power to enforce its judgments by the imposition of a pecuniary penalty or imprisonment, and that in the endeavor to enforce its judgment by proceedings in contempt it would be subject to have its final judgment brought into review in the contempt proceedings upon a change of judge, or of venue, to a completely new jurisdiction and to a trial by jury, in which the merits of the final order, which has been made by the court, in the proceeding, should again be reviewed, including the question whether there was any merit, right, or authority of the court in the equitable proceedings in which the judgment had been rendered or the order made, and the equitable jurisdiction of the district court upon matters finally determined would thus be subject to be again brought in question by another judge in another venture and by a jury, a thing unheard of in the chancery jurisdiction. If such a state of things could be, it could but result in the degradation of courts and to make them truly the subjects of contempt.

If the power to punish for contempt is inherent in the courts it can not be taken away or impaired by Congress or the State legislatures. If it is inherent then the courts can not exist without it. As to whether such power is inherent is well stated by the Supreme Court of Mississippi in the case of Watson *v.* Williams (36 Miss., 331), as follows:

The power to fine and imprison for contempt, from the earliest history of jurisprudence, has been regarded as a necessary incident and attribute of a court, without which it could no more exist than without a judge. It is a power inherent in all courts

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of record and coexisting with them by the wise provisions of the common law. A court without the power effectually to protect itself against the assaults of the lawless, or to enfore its orders, judgments, or decrees against the recusant parties before it, would be a disgrace to the legislation and a stigma upon the age which invented it.

In Kalamazoo *v.* Superior Court Judge, in 75 Michigan, 274, the court argues the question in this way:

It is within the power of a legislature to change the formalities of legal procedure, but it is not competent to make such changes as to impair the enforcement of rights. * * * The functions of judges in equity cases in dealing with them is as well settled a part of the judicial power and as necessary to its administration as the functions of juries in common-law cases. Our constitutions are framed to protect all rights. When they vest judicial power they do so in accordance with all of its essentials, and when they vest it in any court they vest it as efficient for the protection of rights, and not subject to be distorted or made inadequate. The right to have equity controversies dealt with by equitable methods is as sacred as the right of trial by jury. Whatever may be the machinery for gathering testimony or enforcing decrees, the facts and the law must be decided together; and when a chancellor desires to have the aid of a jury to find out how the facts appear to such unprofessional men, it can only be done by submitting single issues of pure fact, and they can not foreclose him in his conclusions unless they convince his judgment.

In all ages and in all countries this distinction by nature, which was never called "equitable" except in English jurisprudence, where it was first so called from an idea that the rights were imperfect because unknown in the rude ages, when property was scanty and business almost unheard of in the regions outside of great cities, has been recognized and provided for by suitable methods substantially similar in character. * * * The system of chancery jurisprudence has been developed as carefully and as judiciously as any part of the legal system, and the judicial power includes it, and always must include it. Any change which transfers the power that belongs to a judge to a jury, or to any other person or body, is as plain a violation of the Constitution as one which should give the courts executive or legislative power vested elsewhere. The cognizance of equitable questions belongs to the judiciary as a part of the judicial power, and under our Constitution must remain vested where it always has been vested heretofore.

The following cases and many others lay down the same doctrine: Ex parte Terry (128 U. S.); Eilenbecker *v.* Plymouth Court (134 U. S.); Ex parte Debs (158 U. S.).

In conclusion, we call attention to the most recent utterance of the United States Supreme Court on this point in the case of Gompers *v.* Bucks Stove & Range Co. (221 U. S., 492) and the cases therein cited.

Judge Lamar says:

For while it is sparingly to be used, yet the power of courts to punish for contempts is a necessary and integral part of the independence of the judiciary, and is absolutely essential to the performance of the duties imposed on them by law. Without it they are mere boards of arbitration, whose judgments and decrees would be only advisory.

If a party can make himself a judge of the validity of orders which have been issued, and by his own act of disobedience set them aside, then are the courts impotent, and what the Constitution now fittingly calls "judicial power of the United States" would be a mere mockery.

This power "has been uniformly held to be necessary to the protection of the court from insults and oppression while in the ordinary exercise of its duty, and to enable it to enforce its judgments and orders necessary to the due administration of law and the protection of the rights of citizens." (Bessette *v.* W. B. Conkey Co., 194 U. S., 333, 48 L. ed., 1004; 24 Sup. Ct. Rep., 665.)

There has been general recognition of the fact that the courts are clothed with this power, and must be authorized to exercise it without referring the issues of fact or law to another tribunal or to a jury in the same tribunal. For, if there was no such authority in the first instance, there would be no power to enforce its orders if they were disregarded in such independent investigation. Without authority to act promptly and independently the courts could not administer public justice or enforce the rights of private litigants. (Bessette *v.* W. B. Conkey Co., 194 U. S., 337, 48 L. ed., 1005; 24 Sup. Ct. Rep., 665.)

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What good can come from this legislation? What evils will be remedied and what rights will be more secure? If you can point to nothing it will accomplish in the way of enlightened progress then this bill should be defeated If our present system of punishing contempts has worked well is it the part of wisdom for Congress, even if it has the power, to change it? Is it wise public policy to do so?

In this day of carping critics we hear much of criticism of our American institutions and especially of our courts. Criticism of some of the courts may be just, but that does not justify a radical change in the method of procedure that will hinder and embarrass our whole judiciary in the administration of justice. If in some instances, yet none have been cited, the judges have abused the power to punish for contempt, is it a wise policy to take from or seriously impair the power of all the judges to administer justice and maintain the dignity and authority of the courts of the land?

It has been urged that this legislation is needed to relieve the courts of the criticism that the judges are biased in their decisions as to whether their own orders have been violated and their authority defied.

They say that whether this criticism be just or not, they should be removed from the possibility of this charge. Even if this amounts to an argument it is not necessary to impair the power of the courts in the performance of their judicial functions to reach that end. If one accused of contempt feels that he can not have a fair trial before the judge "whose authority he has defied," it is not necessary to resort to the slow, uncertain, and cumbersome plan provided by this bill to remedy that evil, if it were possible under the Constitution to do so. The possibility of prejudice on the part of the judge may be eliminated by another plan much surer and more expeditious than this, and a plan that does no violence to the Constitution. Let the accused have the right to have another judge designated to try and determine whether he is guilty of the charge. A judge is qualified to know and understand the force and purpose of a decree and the importance to the litigants and to the people, of having it duly observed. This would avoid all the uncertainties and delays incident to the jury system. It would wholly remove the possibility of the accused being the victim of bias or prejudice and fully answers the charge that judges should be protected from the criticism that prejudice influences their decisions in such cases.

President Taft very ably discusses these two plans in his letter of acceptance:

DANGEROUS ATTACK ON POWER OF COURTS.

This provision in the [Democratic] platform of 1896 was regarded then as a most dangerous attack upon the power of the courts to enforce their orders and decrees, and it was one of the chief reasons for the defeat of the Democratic Party in that contest, as it ought to have been. The extended operation of such a provision to weaken the power of the courts in the enforcement of their lawful orders can hardly be overstated.

EFFECT OF JURY TRIAL.

Under such a provision a recalcitrant witness who refuses to obey a subpœna may insist on a jury trial before the court can determine that he received the subpœna. A citizen summoned as a juror and refusing to obey the writ when brought into court must be tried by another jury to determine whether he got the summons. Such a provision applies not alone to injunctions, but to every order which the court issues

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against persons. A suit may be tried in the court of first instance and carried to the court of appeals and thence to the Supreme Court, and a judgment and decree entered and an order issued, and then if the decree involves the defendants' doing anything or not doing anything, and he disobeys it, the plaintiff, who has pursued his remedies in lawful course for years, must, to secure his rights, undergo the uncertainties and delays of a jury trial before he can enjoy that which is his right by the decision of the highest court of the land. I say without hesitation that such a change would greatly impair the indispensable power and authority of the courts. In securing to the public the benefits of the new statutes enacted in the present administration the ultimate instrumentality to be resorted to is the courts of the United States. If now their authority is to be weakened in a manner never known in the history of the jurisprudence of England or America, except in the constitution of Oklahoma, how can we expect that such statutes will have efficient enforcement Those who advocate this intervention of a jury in such cases seem to suppose that this change in some way will inure only to the benefit of the poor working man. As a matter of fact, the person who will secure chief advantage from it is the wealthy and unscrupulous defendant, able to employ astute and cunning counsel and anxious to avoid justice.

I have been willing, in order to avoid a popular but unfounded impression that a judge, in punishing for contempt of his own order, may be affected by personal feeling, to approve a law which should enable the contemnor upon his application to have another judge sit to hear the charge of contempt, but this, with so many judges as there are available in the Federal courts would not constitute a delay in the enforcement of the process. The character and efficiency of the trial would be the same. It is the nature and the delay of a jury trial in such cases that those who would wish to defy the order of the court would rely upon as a reason for doing so.

MAINTENANCE OF FULL POWER OF COURTS NECESSARY TO AVOID ANARCHY.

The administration of justice lies at the foundation of government. The maintenance of the authority of the courts is essential unless we are prepared to embrace anarchy. Never in the history of the country has there been such an insidious attack upon the judicial system as the proposal to interject a jury trial between all orders of the court made after full hearing and the enforcement of such orders.

We present a bill (H. R. 21722), introduced by Mr. Sterling, which provides a plan of procedure in contempt cases, and which gives to one accused of indirect contempt the right to have another judge designated to try and determine the charge of contempt against him, and recommend that it do pass.

It is as follows:

[H. R. 21722, Sixty-second Congress, second session.]

A BILL To amend an act entitled "An Act to codify, revise, and amend the laws relating to the judiciary." approved March third, nineteen hundred and eleven

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended by inserting after section two hundred and sixty-eight thereof seven new sections, to be numbered, respectively, 268 a, 268 b, 268 c, 268 d, 268 e, 268 f, and 268 g, reading as follows:

"SEC. 268 a. That contempts of court are divided into two classes, direct contempts and indirect contempts, as hereinafter defined.

"SEC. 268 b. That contempts committed in the presence of the court or of a judge at chambers are direct contempts. All other contempts are indirect contempts.

"SEC. 268 c. A person charged with direct contempt of court, if found guilty, shall be punished summarily and judgment thereon shall be entered of record accordingly, which judgment shall contain a statement of the acts constituting the contempt and a statement, if any, of the accused relied on as a defense or made in extenuation of the offense and the sentence of the court in the case.

"SEC. 268 d. Any person charged with indirect contempt of court shall be given a written statement of the charge or charges against him specifically setting forth the acts on which the charge of contempt is predicated. Thereupon the accused shall be arraigned and his plea entered of record. If the accused should plead guilty to the charge the court shall enter judgment thereon and impose sentence in the case. If he pleads not guilty the court shall set the case for trial and admit the accused to bail until final determination of the case. The trial shall be by the court, and witnesses

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called and examined for and against the accused as in criminal cases. If the accused shall be found guilty, judgment shall be entered accordingly and the punishment prescribed. Said punishment may be by fine or imprisonment, or both, in the discretion of the court: *Provided*, That in cases where the fine is payable to the United States the same shall not exceed the sum of one thousand dollars in any case; and in no case shall the term of imprisonment exceed six months.

"SEC. 268 e. If any person who has entered a plea of not guilty to a charge of indirect contempt shall make affidavit that the judge before whom the case is set for trial in the first instance is prejudiced against him and that on account of such prejudice he believes he can not have a fair and impartial trial such judge shall designate forthwith some other judge to hear and determine the case.

"SEC. 268 f. That the evidence taken on the trial of any person accused of indirect contempt shall be preserved by bill of exceptions and any judgment entered in such case may be reviewed on appeal or by writ of error as now provided by law in criminal cases and such judgment may be reversed or modified as justice may require. When an appeal is taken or a writ of error granted, execution of the judgment shall be stayed and the accused shall be admitted to bail in such sum as is fixed by the court.

"SEC. 268 g. That the provisions of this act shall apply to all proceedings for contempt in all courts of the United States except the Supreme Court: *Provided*, That this act shall not affect any contempt proceedings pending at the time of the passage of this act."

The fundamental distinction between this bill and H. R. 21100 is that the latter provides a trial by jury in cases where the acts constituting the contempt also constitute a criminal offense, while this bill provides that in indirect contempts the accused may have another judge to try the contempt.

We believe that it meets every criticism, just or unjust, and avoids every evil that may be charged against the present practice.

It divides contempts into two classes, direct and indirect, and gives to each class the usual and natural definition.

It defines direct comtempts as those committed in the presence of the court or of a judge at chambers. Under it these contempts shall be punished summarily by the court. No one would change the practice in that regard, and neither of the bills would deprive the court of the power to deal with such contempts in that way. It further provides that the judgment in such case shall be entered of record and that the judgment shall contain a statement of the acts and a statement, if any, of the accused, relied on as a defense or as an extenuation of the offense.

It provides a specific plan of proceedure in all cases which charge an indirect contempt of court. The accused may in such case, upon his own affidavit that the judge is prejudiced against him and that on account thereof he believes that he can not have a fair trial, have another judge designated to hear and determine his case.

The bill also provides for a review by the higher courts on appeal or by writ of error.

We repeat that the only charge made against the present practice is that judges who have issued orders or rendered judgments and decrees should not be permitted to pass upon the question as to whether a person has violated such order or decree or has defied or assailed the authority of the court over which that judge presides. It is said that a judge under such circumstances is prone to bias and that his decision might be tainted with prejudice against the accused. This bill eliminates such a possibility and it does it more effectually than does the bill reported by the majority. Under that bill the judge conducts the trial of the case before the jury, he passes upon the admissibility of the evidence, and delivers the charge to the

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jury, so that under the system provided by that bill there is still a possibility of the same criticism against him as in the present practice. The accused might still feel that he was the victim of judicial bias.

Such is not the case in the bill offered by the minority. Under its provisions the judge whose decree has been violated or whose authority has been defied is eliminated fron the case and it is submitted to another judge who could have no possible prejudice against the accused, because he has no connection with the case. This bill meets all objection to the present practice without doing violence to the long-established principles of equity which forbids the intervention of a jury in equity proceedings. It accomplishes the desired end without taking away or impairing the judicial power of the court conferred upon it by the Constitution.

Respectfully submitted.

JOHN A. STERLING.
R. O. MOON.
EDWIN W. HIGGINS.
PAUL HOWLAND.
FRANK M. NYE.
FRANCIS H. DODDS.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 614.

TEMPORARY OR SPECIAL JUDGE, UNITED STATES DISTRICT COURT OF PORTO RICO.

APRIL 26, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. CLAYTON, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany H. R. 10169.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 10169) to provide for holding the District Court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge, report the same back with the recommendation that it do pass.

This bill seeks to make provision for the designation by the Governor of Porto Rico of a justice of the Supreme Court of Porto Rico to act, either as temporary judge of the United States District Court for Porto Rico or as a special judge thereof, during the absence of the judge of the said court or his disqualification to sit in any case or cases before that court. Such temporary or special judge would, under the provisions of the bill, receive no compensation in addition to that received by him as justice of the Supreme Court of Porto Rico. Its enactment would remedy such a situation as that which existed during the April (1911) term of the District Court of Porto Rico when the late Judge John J. Jenkins was in his last illness and the business of the court was suspended. In fact it was this very condition which called attention to the necessity for such legislation as it is here proposed.

In the second contingency mentioned—that is, in case of the disqualification of the United States district judge to sit in any case—it would be necessary without this proposed amendment of the law for a judge to be sent from the United States to Porto Rico. It is not settled that a circuit judge or a circuit justice has the power to assign a district or circuit judge from one of the districts in continental United States to the district of Porto Rico. At all events it would seem wise to save the expense of sending a district judge to Porto

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Rico by a proper measure such as your committee believe this bill to be.

The enactment of the legislation was recommended by the Attorney General in his letter to the chairman of the Committee on the Judiciary under date of April 25, 1911, which letter and the memorandum therein mentioned for the Secretary of War from Gov. Colton, of Porto Rico, under date of April 20, 1911, are hereto appended.

OFFICE OF THE ATTORNEY GENERAL,
Washington, April 25, 1911.

Hon. HENRY D. CLAYTON,
Chairman Committee on the Judiciary, House of Representatives.

MY DEAR MR. CLAYTON: The Secretary of War advises me that he has had a talk with you with respect to procuring some legislation under which during the absence of the United States district judge for Porto Rico a justice of the supreme court of the island may act in his stead. Both Judge Jenkins, United States district judge, and Gov. Colton recommend the passage of such an act, and it would seem to me to be quite necessary that there should be some such legislation. It may be a question whether or not under the general power of a circuit judge or circuit justice to assign a district or circuit judge from one district to another a judge from one of the districts in the United States proper could be assigned to Porto Rico. Aside from that the expense of sending a judge from the mainland to the island is worthy of consideration. The supreme court of the island is composed of a chief justice and four associate justices, two of whom are Americans and three native Porto Ricans. During the absence from the island of the regular United States district judge, it seems to me that one of these justices might properly hold the district court, and I have drafted a bill, which I inclose for your consideration, which would authorize that to be done.

I also inclose a memorandum from the governor of Porto Rico and a letter from Judge Jenkins recommending this legislation.

Faithfully, yours,

GEO. W. WICKERSHAM, *Attorney General.*

[Memorandum for the Secretary of War.]

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, April 20, 1911.

There is considerable business pending in the United States District Court for Porto Rico, and the time for opening its April term has passed.

Judge Jenkins, the incumbent, is in the United States and is in such ill health as to make his return at all problematical, and under the most favorable circumstances impossible for two or three months.

Meanwhile all business of the court is suspended, and the rights of litigants are thereby prejudiced, and there is no one with judicial authority to act upon applications for emergency writs or to sign orders; neither is there any authority in law for the designation of a substitute judge during the absence or disability of the regular incumbent.

To relieve the immediate situation, as well as to enable the designation of a substitute judge whenever necessary in an emergency or when the regular judge may be absent on leave, it is suggested that Congress be requested to authorize the President to designate one of the judges of the Supreme Court of Porto Rico to act, without extra compensation, as judge of the United States district court during any absence of the regular judge.

Attached hereto is a letter from Judge Jenkins upon this subject.

Respectfully submitted.

GEO. R. COLTON, *Governor of Porto Rico.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 615.

USE OF RECLAMATION FUND IN CONSTRUCTION OF BRIDGE ACROSS SNAKE RIVER, WYO.

APRIL 26, 1912.—Committed to the Committee of the Whole House on the state of of the Union and ordered to be printed.

Mr. TAYLOR of Colorado, from the Committee on Irrigation of Arid Lands, submitted the following

REPORT.

[To accompany H. R. 21171.]

The Committee on Irrigation of Arid Lands have had under consideration H. R. 21171, a bill authorizing the use of the reclamation fund in construction of a bridge across Snake River, in Wyoming, and report the same back with recommendation that it be amended as follows:

In line 4, page 2, strike out the word "as" and insert the following: "not to exceed eighteen thousand dollars, and in no event more than one-half of the sum that."

Also that the bill be amended by adding thereto, at the end of line 10, page 2, the following:

Provided, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guarantees of the payment, by the said local authorities, of one-half of the cost of said bridge; and that the said local authorities assume full responsibility for, and will at all times maintain and repair, the said bridge and approaches thereto.

Also amend by striking out the preamble.

The building of the bridge provided for in this bill is rendered necessary by the construction, by the Reclamation Service under the reclamation law, of a dam at the outlet of Jackson Lake, near the Yellowstone National Park, in northwestern Wyoming; and the change in the character of the flow of Snake River, through which the empounded waters are discharged.

Jackson Lake lies in the northern part of what is known as "the Jackson Hole country," immediately south of the Yellowstone National Park. The lake which covers approximately 20,000 acres, is formed by the waters of the Snake River flowing from the north, and the water is discharged through Snake River to the south. The

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Jackson Hole region, through which the Snake River flows, is a comparatively level basin entirely surrounded by high mountains; it is about 50 miles in length and from 15 to 20 miles in width. Through this basin Snake River flows in a southwesterly direction, finally entering the canyon of the Gros-Ventre Range and flowing through a deep canyon west into Idaho.

Owing to the topography of the country, the Snake River is not available for irrigation to any considerable extent as it flows through Jackson Hole; but a considerable acreage in the eastern part of the region is irrigated from the waters of the Gros-Ventre River, Flat Creek, and other streams. The region supports a permanent population of about 2,000 people, and a very much larger population during the tourist and hunting season.

The Reclamation Service is at present prepared to impound nearly half a million feet of water in Jackson Lake, but have in contemplation works which will ultimately impound a million and a half acre-feet. The reservoir is therefore the largest in capacity of any used by the Reclamation Service. The waters thus impounded are all used in the State of Idaho on the Minidoka project of the Reclamation Service, and by arrangement with the Reclamation Service, by two private enterprises, the North Side Twin Falls Land & Water Co. and the American Falls Canal & Power Co.

Prior to the building of the dam at the outlet of Jackson Lake the Snake River was fordable in its course through Jackson Hole most of the year, except a limited period of high water in the spring. Most of the travel through Jackson Hole comes from the west, over the Teton Pass, and for years a ferry has been maintained near Wilson, on the road from the Teton Pass to the lower end of the Jackson Hole region.

The use of Snake River as a channel for the carrying of the impounded waters from Jackson Lake into Idaho converts Snake River into a stream too deep to ford during any portion of the summer; and in addition to that, in regulating the water in Jackson Lake, it occasionally becomes necessary for the Reclamation Service to open the gates and discharge large quantities of water in the very early spring. This was done twice this last spring, with the result that the flood, carrying with it accumulated ice, washed out the ferry anchorages and left the people of Jackson Hole without any communication with the outside world for a considerable length of time.

It is very clear that the building of the dam at the outlet of Jackson Lake necessitates the building of a bridge across Snake River, and that but for such construction the people of the region could have forded and ferried the river as heretofore; and that there is at least a moral, if not a legal, obligation on the part of the Reclamation Service to contribute toward remedying the condition they have created. This is recognized by the Secretary of the Interior, as shown by letters made part of this report. The Reclamation Service is of course obliged to build bridges across the canals they construct, where public roads cross the same. The service also restores all roads submerged by flooding or interfered with by its construction; but while acknowledging the obligation on the part of the Government in this case, the service seems to be of the opinion that their obligation is not so clear and direct in the case to warrant the building of the bridge by the service without the sanction of Congress.

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The equities in the case are enhanced by the fact that the small community whose only means of communication with the outside world is rendered difficult, and at times impossible, is in no way even remotely benefited by the new condition from which they suffer, and it seems but just that those who benefit from the waters impounded should pay at least a part of the cost of remedying conditions thus created. The Secretary of the Interior expresses the view that the local community should pay half of the cost of the bridge and agree to maintain and repair it.

In these views the committee concur and have amended the bill accordingly.

Letters of the Secretary of the Interior are appended hereto:

DEPARTMENT OF THE INTERIOR,
Washington, March 16, 1912.

Hon. W. R. SMITH,
Chairman Committee on Irrigation of Arid Lands,
House of Representatives.

SIR: The department is in receipt of your letter of March 8, transmitting copy of H. R. 21171, with a request for the views of the department and any suggestions that may be deemed proper.

This bill is entitled as follows: "A bill authorizing the use of the reclamation fund in construction of a bridge across Snake River in Wyoming."

It provides that such portion of the reclamation fund as may be necessary, in the judgment of the Secretary, may be used for the construction of a bridge across Snake River at a point in Ts. 41 or 42 N., Rs. 116 or 117 W., Wyoming, to be determined by the Reclamation Service, with a view of best serving the people of Jackson Hole and adjacent territory in Wyoming.

This bill is substantially the same as S. 3947, except that the latter appropriates the sum of $10,000 for the purpose.

The department, on January 4, 1912, reported to Hon. George S. Nixon, chairman of the Senate Committee on Irrigation and Reclamation of Arid Lands, upon the said bill S. 3947, copy herewith.

In this report the conditions are reviewed, and it is shown that the operations of the Reclamation Service have contributed to a change in the conditions such that it seemed reasonable that the United States should bear one-half the expense of construction. As its operation had a material effect upon the conditions of the river during only two months in the year, it seems proper that the county should contribute at least one-half of the expense of construction, and assume responsibility for its maintenance.

It is believed, therefore, that the bill should provide that the bridge may be constructed by the Reclamation Service as soon as arrangements have been made with the county by which the latter would deposit one-half the estimated cost and agree to maintain the bridge.

Very respectfully,

SAMUEL ADAMS,
Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1912.

Hon. GEORGE S. NIXON,
Chairman Committee on Irrigation and Reclamation of Arid Lands,
United States Senate.

SIR: By reference of December 20 I am in receipt of bill S. 3947, with request for an expression regarding the advisability of this legislation.

This bill is to provide a bridge across Snake River, Wyo., at a cost of $10,000, to be paid out of the reclamation fund. The demand for such a bridge arises from the fact that the Snake River in its course through Jackson Lake has but few practicable fords. The settlers in this area obtain their supplies by team from towns to the west in the State of Idaho by crossing the Teton Mountains. The pass is traversed with great difficulty by heavy teams excepting for two months in the year, namely, August

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and September. During these months the settlers as a rule drive their stock to market and bring back their year's supplies.

A dam has recently been built under the terms of the reclamation act of June 17, 1902 (32 Stat., 388), for controlling the water in Jackson Lake. Before the lake was thus regulated the river was at a low stage during August and September, but with the storage of floods and turning these down the river during the latter part of the crop season the river is maintained at a height above the normal and many of the fords are impassable, so that it is necessary to make wide detours to reach a ferry.

A reconnoissance has been made of the country and the conclusion reached that a steel bridge can be built at a cost of between $25,000 and $35,000. It is hardly practicable to attempt to construct anything much cheaper, as a bridge which is not well built can hardly be expected to remain long enough to justify the outlay.

It is not wise to attempt the construction of such a bridge until the contemplated railroad has been completed to the town of Driggs, Idaho, from which point material can be freighted in at less expense than from the present railroad stations. It is understood that the railroad will be in operation to Driggs by the end of 1912.

Assuming that there is a moral obligation on the part of the Government to provide a bridge in order to meet the changed conditions in August and September, due to the construction of the Jackson Lake Dam, it is believed that Uinta County, Wyo., in which the bridge is to be located, should not only bear one-half the expense of this construction, but should also be required to assume responsibility for its maintenance. The county should also be required to put in good condition an adequate wagon road and approaches to the bridge.

The payment of half the cost by the county should be required, because the bridge would be available during the entire year, whereas the operations of the Government do not deleteriously affect the river in other months than August and September.

Considering all the conditions, the department is of the opinion that the Government could not be required to construct this bridge unless the county shall cooperate in the manner hereinbefore indicated.

Very respectfully, WALTER L. FISHER, *Secretary*.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 616.

PRACTICE OF OSTEOPATHY IN DISTRICT OF COLUMBIA.

APRIL 29, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 19236.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 19236) to regulate the practice of osteopathy in the District of Columbia, report the same back to the House with the recommendation that it do pass with the following amendments, viz:

Page 1, in line 4, after the word "examiners," insert the following: "for the District of Columbia." Strike out, in line 8, the words "president of the."

Page 2, line 1, after the word "make," insert the following: "all future." Strike out, in line 18, the words "and professional."

Page 3, strike out, in line 18, the word "security" and substitute therefor the word "surety." Strike out, in line 19, the word "regulations," and substitute therefor the words "by-laws." Insert, in line 24, after the word "members," the following: "of the board."

Page 4, line 16, strike out the word "expense" and substitute therefor the word "debt."

Page 5, line 15, strike out the words "each member" and substitute therefor the following: "a majority."

Page 6, line 3, strike out the words "and has." Strike out all of line 4. Strike out, in line 5, the following: "a high school of the first class or its equivalent." Strike out, in line 12, the following: "if satisfied with the same." Strike out, in line 18, the following: "the examination is satisfactory." Strike out, in line 19, the following: "to said board of osteopathic examiners."

Page 7, line 6, strike out the word "same" and substitute therefor the word "original." Strike out, in line 13, the words "a satisfactory" and substitute therefor the word "the." Strike out, in line 18, the works "examined and." Strike out, in line 22, the word "may."

Page 8, line 13, strike out the word "regulations" and substitute therefor the following: "the laws and all legal regulations." Strike out, in line 21, the words "or of gross unprofessional." Strike out all of line 22. Strike out, in line 23, the following: "to render him unfit to practice osteopathy."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT. No. 617.

LIGHTING PINEY BRANCH ROAD.

APRIL 29, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 21708.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 21708) to authorize the lighting of Piney Branch Road from Georgia Avenue to Butternut Street, report the same back to the House with the recommendation that it do pass without amendment.

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62D CONGRESS, 2d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 619.

ENDOWMENT OF SCHOOLS OR DEPARTMENTS OF MINES AND MINING, ETC.

APRIL 29, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FOSTER, from the Committee on Mines and Mining, submitted the following

REPORT.

[To accompany H. R. 6304.]

The Committee on Mines and Mining, having had under consideration H. R. 6304, report the same to the House with certain amendments with a recommendation that the amendments be agreed to and the bill be passed.

The committee begs leave to submit the following report:

Page 1, line 6, strike out the word "eleven" and insert the word "twelve"; line 7, strike out the word "twelve" and insert "thirteen;" line 9, strike out the word "thirteen" and insert the word "fourteen."

Page 2, line 1, strike out the word "fourteen" and insert the word "fifteen"; line 3, strike out the word "fifteen" and insert the word "sixteen."

[H. R. 6304, Sixty-second Congress, first session.]

A BILL To apply a portion of the proceeds of the sales of public lands to the endowment of schools or departments of mines and mining, and to regulate the expenditure thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appropriated from the sale of public lands, not otherwise appropriated, the sum of five thousand dollars for the fiscal year beginning July first, nineteen hundred and eleven; the sum of ten thousand dollars for the fiscal year beginning July first, nineteen hundred and twelve; the sum of fifteen thousand dollars for the fiscal year beginning July first, nineteen hundred and thirteen; the sum of twenty thousand dollars for the fiscal year beginning July first, nineteen hundred and fourteen; the sum of twenty-five thousand dollars for the fiscal year beginning July first, nineteen hundred and fifteen, and twenty-five thousand dollars for each succeeding year thereafter, to each State and Territory in the United States, for the establishment and maintenance, under the control of the Secretary of the Interior of the United States, of a school or department of instruction in mines and mining.

SEC. 2. That if there be already established in any State or Territory a school of mines and mining under the control of said State or Territory, or a department of

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instruction in mining connected with any institution of learning controlled by said State or Territory, then the moneys appropriated in section one of this act shall go to said school or department of instruction already established. That if there are two schools or departments of mines and mining in any State or Territory under the control of said State or Territory, then the money so appropriated shall be equally divided between such schools or departments. That if there be no school or department of instruction in mines and mining already established in any State or Territory, the school or department of instruction in mines and mining herein provided for shall be established in connection with an agricultural college, if there be such, controlled by said State or Territory. In States and Territories having no school or department of instruction in mines and mining already established or agricultural college, then the Secretary of the Interior shall designate some other institution of learning controlled by said State or Territory, in connection with which said school or department of instruction in mines and mining shall be established: *Provided*, That if any State or Territory have no school or department of instruction in mines or mining, or agricultural college, or other institution of learning controlled by said State or Territory, then the Secretary of the Interior shall designate some accessible and convenient place in said State or Territory where the school of mines and mining herein provided for shall be located.

SEC. 3. That the money appropriated in section one hereof shall be expended only for instruction, research, and experiment (including the employment of instructors and experts, the purchasing of apparatus, supplies, books, and the equipping of laboratories) in mining, mining machinery (with the application of electricity thereto), mining engineering, ore treatment, metallurgy, assaying, and chemistry and geology, so far as these sciences relate to minerals and mining, with a view to teaching a practical and scientific knowledge of the best and safest methods of mining and carrying on the business of mining and of producing gold, silver, coal, and other minerals, oil, gas, and medicinal waters, and also the concentrating, smelting, refining, and other preparation of the same for marketing, so far as the same may be necessary and appropriate to the mineral resources of the State or Territory in which said school or department of instruction in mines and mining shall be located; and especially for the study and prevention of explosions, fires, and other dangers incident to the carrying on of mining and the mining industry, in order to secure the most intelligent conservation, use, and development of the mining and mineral resources of the country, to make the lives of miners more safe, property in mines more secure, and to promote the general welfare of miners and operators of mnes.

SEC. 4. That the head of each school or department of instruction in mines and mining established according to this act shall report in writing annually, on or before the first day of July, to the governor of the State or Territory in which said school or department of instruction is located, the condition, progress, and work of the school or department of instruction during the year past, together with such recommendations as he may deem best for accomplishing the purposes of this act as set forth in section three hereof; and that a copy of said report shall be also sent to the Secretary of the Interior.

SEC. 5. That if at any time in the judgment of the Secretary of the Interior any school or department of instruction in mines and mining provided for in this act shall not be faithfully carrying out the purposes of said act as set forth in section three hereof, then all moneys herein appropriated for said school or department of instruction shall be withdrawn from said school or department of instruction until the same shall have produced evidence satisfactory to the Secretary of the Interior that said school or department of instruction is faithfully carrying out the provisions of section three of this act.

SEC. 6. That the sums hereby appropriated to the several States and Territories for the purpose herein specified shall be annually paid, on or before the thirty-first day of July of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of the Interior, out of the Treasury of the United States, to the State or Territorial treasurer or to such officer of each State or Territory as shall be designated by law to receive the same, who shall, upon the order of the trustees or other board of control of said college or university or separate school of mines, immediately pay over said sum to the respective treasurers of such institutions or to such other officers as be duly authorized by said trustees or board of control to receive the same.

Income from the sale of public lands in the United States outside of the reclamation States, and which income is not now otherwise appropriated, but goes into the Public Treasury, is as follows:

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Alabama	$29,000
Alaska	137,000
Arkansas	139,000
Florida	65,000
Louisiana	19,000
Michigan	9,000
Minnesota	123,000
Missouri	23,000
Wisconsin	11,000
	555,000

While your committee realizes that this sum would not be sufficient to pay the entire amount provided in this bill if every State and Territory should avail itself of this provision, when the maximum amount is reached in 1916, yet we believe that with the opening of the sale of lands in Alaska and the sale of other public lands that the amount will be increased in the next few years, and, if it does not afford sufficient money to pay these amounts to each State and Territory, we believe that Congress would make up whatever deficiency existed at that time, and we have, therefore, not provided in this bill for any additional payment to be made out of the Treasury otherwise than from the sale of public lands. For many years all the money received from the sale of mineral lands has also gone into the Treasury and has been used for purposes other than for the benefit of mining.

The two great sources of our national wealth are agriculture and mining. In 1862 the Government very wisely took steps for the establishment and maintenance of agricultural colleges in the various States and Territories for teaching the principles of scientific farming. No one will deny that this aid given has not been of great value to farming and has increased very much our wealth that comes from the soil.

The effect of governmental action in behalf of these agricultural colleges has been more beneficent. Science has been applied to the soil, so that farming has become more scientific and remunerative. By studying the properties and conditions of soils and scientifically supplying such properties as they have lacked, they have been made to produce manifold more than they could have produced without such treatment. The suitability of certain soils for certain kinds of crops has been investigated, and as a result agricultural waste has been reduced to a minimum. The great benefits resulting from these agricultural colleges are apparent to every observant person.

What these various laws have done for agriculture, this bill proposes to do for mining. It is of the utmost importance that the mineral resources of the Nation be conserved both for the welfare of ourselves and of our posterity. The minerals of the Nation are not inexhaustible, and future generations will justly hold us to account if we fail to conserve them to the best of our ability. This bill seeks scientific ways of mining to the end that this industry may be carried on with the least possible amount of waste. It seeks to discover methods for utilizing all the output of a mine that none of it may be lost. It is quite probable that mines which now can not be operated at all, or, if so, can not be profitably operated, within a few years could be made to pay if the invention of new mining apparatus or the improvement of mining methods could be brought about through scientific study and research.

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In days past, when mining methods were more crude and less scientific, enough valuable ore was forever lost in the mud and ooze of river beds to defray the cost of the appropriations contemplated in this bill many times over. Ores that could not be worked by the crude machinery of those unscientific times could have been made to bear millions of dollars if more enlightened methods and more scientific machinery had been in existence. This bill, if enacted into law, would result in utilizing every bit of our mineral products and the waste would be reduced to an absolute minimum.

It is not known what new minerals may be hiding in the pockets of the earth that more scientific methods would bring to light. Take radium, for instance, the wonderful mineral of the twentieth century. Little is known of it, and yet it seems to have great properties of light and heat. Under existing conditions no radium has been found in this country. Every atom of it comes from the zinc blends of Bohemia. It is not improbable that even this precious material may be found in America or might be artificially produced from other mineral if our knowledge of mining processes were only more scientific. What strange mineral not yet known to man might be found through the application of science to mining no one can foresee.

The progress of the race toward higher planes of civilization is brought about by studying the records of victory and failure that have been made by different investigators, by avoiding these failures, and taking advantage of those successes. One of the greatest secrets of success of Mr. Edison, the greatest of American inventors and one of the greatest of inventors of all history, has been in preserving a careful record not only of all that he has done but of all that others have done. This record enables him to avoid making the costly mistakes that others have made, and conserves his time and energy for effort along lines where success may be found.

Vast sums of money have been spent in the investigation of mining conditions, but others have not had the record of these investigations, and hence have gone over the same road to meet the same failure at the end. The establishment of schools or departments for instruction in scientific mining is surely of sufficient importance to be a national matter. If the Nation should take this up, a record of achievements and failures could be kept, so that the whole country would have the benefit of the investigation pursued by any one school or department or in any particular field of mines and mining. So long as men work independently, the country may lose the value of their services, and the work which they are doing may be duplicated; but the national establishment of schools and departments of mines and mining, as contemplated in this bill, would give the whole country the benefit of all the research made in all the different schools or departments. As a result, the progress in mining would necessarily be faster, the waste would be less, and much would be done toward the conservation of our mineral resources.

But this is not all. The loss of life among miners in America within recent years has been appalling. It has been presumed generally that railroading is the most hazardous of occupations, but statistics show that more miners per thousand engaged lose their lives in mines than railroad men. The following brief tabulated statement will show the significant death rate of miners in the United States during recent years:

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Number of persons killed in coal-mine accidents in the United States, 1896–1911.

1896	1,091	1904	2,004
1897	982	1905	2,232
1898	1,064	1906	2,111
1899	1,220	1907	3,200
1900	1,492	1908	2,443
1901	1,549	1909	2,668
1902	1,095	1910	2,838
1903	1,752	1911	[1] 2,517

No accurate statistics are available concerning the deaths in metal mines and quarries. A sufficient amount of data has been collected, however, to indicate that the death rate of each 1,000 men employed in the metal mines is nearly as great as it is in the coal mines.

One of the most helpful results of the national establishment of schools or departments of mines and mining, as proposed in this bill, would be to teach safer methods of mining, so that the lives of miners might be more safe and property in mines more free from destruction. It the Government could do anything to safeguard the lives of miners, who take their lives in their hands and go down into the depths of the earth to bring forth the minerals that are essential to civilization, surely it ought to be done. It is believed that, should such schools or departments be established, the next few years would show a welcome decrease in the death rate among miners. What is true in the way of making life safer in mines would also be true of protecting property in them, as the causes of explosions and other disasters incident to mining would be scientifically investigated and reduced to a minimum.

There are also many reasons why such a school would be of great importance to the country, as this country has but recently entered upon real development as a manufacturing country.

INCREASING IMPORTANCE OF INVESTIGATIONS INTO THE MINING INDUSTRY—THE MINING INDUSTRY AS A BASIS OF MANUFACTURES.

This country has but recently entered upon its real development as a manufacturing country, and its manufactures are yearly becoming more intimately associated with and dependent upon the mining industry. The following table shows the rapid increase in the value of manufactured products:[2]

1870	$3,385,860,000
1880	5,369,579,000
1890	9,373,379,000
1900	11,406,927,000
1910	20,672,052,000

This increase in manufacturing is intimately associated with the growth of the mining industry, not only because the products of the mine are being used to an increasingly large degree in the manufactures of the country, but also in supplying power, heat, and light for the factories. The following table shows the increase in the value of the crude mineral products in the United States:

1880	$364,928,296
1890	606,476,380
1900	1,007,031,392
1910	2,003,744,869

[1] Estimated from nearly complete returns.

[2] Excluding hand and neighborhood trades.

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The following table indicates also the increase in the rate of production (practically the same as the rate of consumption) of coal in the United States:

1870	$33,035,580
1880	71,481,570
1890	157,770,963
1900	269,684,027
1910	501,596,378

The following table indicates also the rapidly increasing rate of per capita consumption of coal:

Coal consumption per capita in the United States:	Tons.
1870	0.96
1880	1.52
1890	2.52
1900	3.53
1910	5.5

THE MINING INDUSTRY AS A BASIS OF TRANSPORTATION.

The products of the mine now constitute 60 per cent (by weight) of the total freight traffic.

Furthermore, the steel from the iron ores of the mines now makes up the ships, the passenger trains, the freight trains, and the rails, which represent the machinery of transportation.

The products of the mine (coal and oils) develop the power that moves all these transportation facilities.

These transportation facilities now consume 100,000,000 tons of coal (one-fifth of the total production) and 25,000,000 barrels of oil yearly.

Stop the working of the mines, even temporarily, and we have a situation such as existed in Great Britain a little while ago, the wheels of industry and the facilities of transportation standing still and the people of the nation in idleness.

WASTE OF RESOURCES IN THE MINING AND METALLURGICAL INDUSTRIES.

So little has been done in investigating the nature and extent of the waste in mining and metallurgical resources that only approximate data are available. It is known, however, that the waste or loss in coal mining now approximates 250,000,000 tons of coal yearly. The losses in coal and losses in energy in connection with the use of the 500,000,000 tons of coal mined during the past year are almost, if not quite, as great as the losses in mining. The waste of natural gas exceeds the total amount of artificial gas manufactured and used in all the towns and cities of the United States. At present prices the aggregate value of the by-products that could have been manufactured from the waste gases at the coke ovens of the country during the past year approximated $50,000,000.

In the metal-mining industries the waste or loss in the mining and treatment of ores varies from 20 to 50 per cent of the total values in the different branches of the industry. It is believed that a large proportion of this waste is preventable. Your committee believes that this bill will meet with the hearty approval of miners, operators, and people generally everywhere. It will teach many in a scientific way and we sincerely trust that the bill will pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 621.

LIFE BOATS AND RAFTS ON ALL ARMY TRANSPORTS.

APRIL 30, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HAY, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 23626.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 23626) to appropriate $300,000, or so much thereof as may be necessary, to equip all Army transports with all life boats and rafts necessary to accommodate every person for which transportation facilities are now provided on said transports, and the crew of said transports, having considered the same, report thereon with a recommendation that it do pass.

Your committee respectfully urge the immediate passage of this bill. Your committee, immediately following the *Titanic* disaster, hastened to acquaint itself with the conditions on Army transports, and was gratified to learn that these transports were equipped with wireless and searchlights; but, while being equipped with more boats and rafts than were required by law, yet did not carry enough boats and rafts to accommodate all the passengers and crew of the transports. The War Department promptly recommended the passage of this bill, as will be seen by the indorsement of the Secretary of War found below:

[Third indorsement.]

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL,
Washington, April 24, 1912.

Respectfully returned to the Secretary of War.

The capacity of the life boats and rafts with which the vessels of the Army transport service are equipped is in excess of the requirements of law, yet the placing of additional life boats and rafts on transports has in the past received careful consideration and is being further considered. While no definite plan has been made for the installation of additional life boats and rafts, yet from consideration already given the subject it is known that additional funds will be required for this purpose, and it is therefore recommended that this bill receive favorable consideration.

In this connection it is respectfully submitted that with the view to increasing the number of life boats and rafts to accommodate the maximum number of passengers and crew on each transport, it may be necessary to reduce the carrying capacity of the vessels.

J. B. ALESHIRE,
Quartermaster General, United States Army.

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[Fourth indorsement.]

WAR DEPARTMENT, *April 25, 1912.*

Respectfully returned to the chairman Committee on Military Affairs, House of Representatives, inviting attention to the foregoing report of the Quartermaster General of the Army.

I strongly urge the passage of this or some similar measure that will provide adequate life-saving facilities of the most approved character on every Army transport for every person on board when the boat is carrying its maximum capacity.

H. L. STIMSON, *Secretary of War.*

Your committee was also furnished with detailed information by the Quartermaster General, showing the exact equipment of these transports, which he gave at a hearing before a subcommittee of this committee.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL,
Washington, April 20, 1912.

HON. JAMES HAY, M. C.,
Chairman Committee on Military Affairs,
House of Representatives, Washington, D. C.

MY DEAR SIR: (1) In compliance with your request of April 18, 1912, I have the honor to forward herewith statement showing lifeboats, life rafts, wireless outfits, searchlights, etc., at present installed on United States Army transports.

(2) It will be noted that the total equipment of life boats and rafts on each of the Army transports, with the exception of three, is very considerably in excess of the requirements of the rules of the Board of Supervising Inspectors, Steamboat-Inspection Service for ocean-going vessels; and in these three excepted cases, the steamers are engaged in interisland service in the Philippine Archipelago and have lifeboat equipment in excess of the requirements of the Board of Supervising Inspectors of Steam Vessels for steamers in service on bays and sounds, and also considerably in excess of the total number of souls carried, passengers and crew.

(3) The law on this subject is found in Revised Statutes, 4488, as amended by act approved March 3, 1905, Statutes at Large 33, pages 1024 and 1025, and in general rules and regulations prescribed by the Board of Supervising Inspectors, Steamboat-Inspection Service, as amended January, 1911, pages 70 to 76, inclusive.

(4) The number of passengers transported upon the Army transports between the United States and the Philippines, Cuba, Porto Rico, Alaska, etc., since the establishment of the service in 1898 to and including June 30, 1911, aggregates a total of approximately 810,500. This transportation has been rendered without the loss of a single human life that could be attributed in any way to a lack of proper equipment, and without a mishap to any vessel at sea resulting in loss of life.

(5) If it should be desired to equip all the transports with sufficient lifeboats to accommodate every person for whom transportation facilities are now provided and the crew, the additional boatage required and its proper installation would call for an expenditure of approximately $300,000.

Very respectfully,

J. B. ALESHIRE,
Quartermaster General, United States Army.

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Table showing lifeboats, rafts, wireless outfits, searchlights, etc., installed on United States Army transports.

Transport.	Gross tonnage.	Where in service.	Length (feet).	Life boats and rafts.						
				Boats.		Rafts.		Total cubic feet capacity.	Law requires total cubic feet capacity for ocean service.	Total passengers accommodated.
				No.	Cubic feet.	No.	Cubic feet.			
Thomas	5,796	San Francisco-Philippine Is.	445.5	16 [1] 1	6,729	12	3,530	10,259	4;320	1,026
Logan	5,672	do	445.5	12 [1] 2	4,353	10	2,941	7,294	4,320	730
Sherman	5,780	do	445.0	13 [1] 1	5,513	9.	2,000	7,513	4,320	752
Sheridan	5,673	do	445.0	11 [1] 3	5,439	8	1,920	7,359	4,320	736
Crook	4,126	do	420.0	14 [1] 1	4,550	2	400	4,950	3,420	495
Buford	5,040	do	370.8	11 [1] 1	3,517	6	1,800	5,317	3,870	532
Kilpatrick	5,040	Atlantic	370.8	11 [1] 1	3,624	6	1,800	5,424	3,870	542
Meade	5,641	do	488.6	17 [1] 1	7,658	2	600	8,258	4,320	826
McClellan	3,006	do	336.0	7 [1] 1	1,982	8	2,400	4,382	2,880	438
Sumner	3,458	do	351.1	11 [1] 1	4,215	4	1,200	5,415	3,240	542
Dix	6,839	Seattle-San Francisco.	445.0	6 [1] 1	1,997	1	100	2,097	1,300	210
Burnside	2,194	Seattle (cable work).	285.2	8 [1] 1	2,710	....	.....	2,710	1,000	271
Seward	1,275	Philippine Is.	194.8	6	1,500	1	200	1,700	[2] 1,260 1,800	170
Wright	871	do	199.5	4 [1] 1	1,250	1	200	1,450	[2] 1,080 1,620	145
Warren	4,243	do	370.7	9	3,600	....	.....	3,600	3,420	360
Liscum	1,072	do	248.0	5 [1] 1	1,450	....	.....	1,450	[2] 1,260 1,800	145

Transports.	Passenger capacity of transports.					Wireless outfit.	Searchlights.		Additional capacity required to provide for all souls on board.		Remarks.
	First class.	Second class.	Troops class.	Crew.	Total souls.		Size.	No.	Cubic feet.	Cost.	
							In.				
Thomas	160	56	1,629	191	2,036	Yes.	18	3	10,100	$41,771	
Logan	113	56	1,398	183	1,744	Yes.	24	2	10,146	41,961	
Sherman	114	56	1,389	183	1,742	Yes.	18	3	9,907	40,973	
Sheridan	101	56	1,557	183	1,897	Yes.	16	3	11,611	48,021	
Crook	67	48	816	161	1,002	([3])	18	1	5,970	24,691	Wireless outfit on hand.
Buford	67	48	882	155	1,152	Yes.	21	2	6,203	25,654	
Kilpatrick	63	44	978	139	1,224	Yes.	21	2	6,816	28,189	Submarine signals installed.
Meade	110	8	1,068	175	1,361	No.	18	1	5,352	22,135	Out of commission.[4]
McClellan	34	37	300	129	500	No.	18	1	618	2,556	Do.
Sumner	52	36	738	119	945	Yes.	24	1	4,035	16,688	Submarine signals installed.
Dix	.....	.....	.....	127	127	Yes.	.....	....	.....	.....	
Burnside	.....	.....	.....	90	90	Yes.	18	1	.....	.....	
Seward	40	.....	.....	75	115	No.	18	1	.....	.....	Soon to be replaced by new transport Merritt.
Wright	10	.....	.....	72	82	No.	18	1	.....	.....	
Warren	48	.....	324	148	520	Yes.	.....	....	1,780	7,361	
Liscum	24	.....	.....	77	101	Yes.	.....	....	.....	.....	
Total	.....	.....	.....	.....	.....	.....	.....	....	72,538	300,000	

[1] Launch.
[2] Law requirements for lake, bay, and sound steamers; these three vessels on interisland service among Philippines.
[3] Not yet installed.
[4] Portable short-distance sets would be installed if ships were ordered to sea.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 622.

ADDITION TO PUBLIC BUILDING, SALT LAKE CITY, UTAH.

APRIL 30, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BURNETT, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany S. 4245.]

The Committee on Public Buildings and Grounds, to which was referred the bill (S. 4245) to increase the limit of cost of the additions to the public building at Salt Lake City, Utah, beg to report the same with the recommendation that the bill do pass.

The present limit of cost for the extension and enlargement of the public building at Salt Lake City, Utah, is $205,000. In awarding the contract for the extension of the building provision for the fourth story was omitted, and the Secretary of the Treasury estimates that to restore the fourth story an increase in the limit of cost of $20,000 will be required. If provision is not made to restore the fourth story, in order to accommodate the Government offices which will have to occupy the building, a great amount of temporary work will have to be done now, which later would have to be torn out and replaced by permanent work.

The Supervising Architect of the Treasury estimates that this temporary work would probably cost 50 or 60 per cent of the amount now asked, and before a year or so it would have to be thrown away and new work to the full extent, and perhaps to a larger extent, would have to be done. The work if done later would probably cost more than it would now, and the expenditure of $20,000 now would save an expenditure of $25,000 or $30,000 in the end, so that it would be close to 50 per cent in excess. He stated in a hearing before the committee that he regarded this measure as one of the greatest emergency cases of which he knew.

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The need and urgency of this bill are set forth in the following letter from the Secretary of the Treasury:

WASHINGTON, *April 18, 1912.*

CHAIRMAN COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
House of Representatives.

SIR: Referring to your request of the 13th instant, that this department furnish your committee with a full report on the urgency of reporting and passing the bill (S. 4245) to increase the limit of cost for the extension of the Federal building at Salt Lake City, Utah, which has passed the Senate and is now pending in your committee, I have the honor to submit the following:

A report was made to the Senate committee on the above bill, under date of January 24 last, stating that the increase as contemplated by the bill was necessary in order to accomplish certain things which were omitted from the original contract, which was awarded April 26, 1911, is more than half completed, and will probably be completed in the fall. Therefore the additional amount contemplated is desirable for the following:

In order to build the fourth story as originally planned for the extension, new roof covering to replace the one now in place, hydraulic lift, decorating the interior, and extensive new coal vaults under driveway.

If the bill in question is not passed appropriating the amount contemplated thereby, a large amount of money will have to be expended for a temporary roof, etc., and therefore the additional amount will be necessary before Congress will have convened again.

Respectfully, FRANKLIN MACVEAGH, *Secretary.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 623.

TO CHECK INROADS OF MISSOURI RIVER, DAKOTA COUNTY, NEBR.

APRIL 30, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ELLERBE, from the Committee on Rivers and Harbors, submitted the following

REPORT.

[To accompany H. R. 23774.]

The Committee on Rivers and Harbors, to whom was referred H. R. 23774, providing an appropriation to check the inroads of the Missouri River in Dakota County, Nebr., reports it with the recommendation that the bill be amended by striking out the word "sixty" in line 3, on page 2, and inserting in lieu thereof the word "fifty," and that the bill as thus amended be agreed to.

It appears from statements made before this committee that during the recent high water in the Missouri River works heretofore constructed by the United States have been damaged to the extent of many thousands of dollars and that the stability and permanency of these works has been so impaired that there is grave danger of their being altogether destroyed during the next high water at the time of the June rise. It is feared that in the event these works are further injured the river may have a tendency to leave its present bed and seek a new channel, in which case the improvements heretofore made by the United States and local interests will be practically useless. The object of the appropriation carried by the bill under consideration is to so strengthen and supplement the work heretofore done by the General Government that the river may be held within its present channel and the improvement heretofore undertaken be made permanent and effective.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 624.

DAM ACROSS THE PEND OREILLE RIVER, WASH.

APRIL 30, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 22731.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22731) to extend the time for the construction of a dam across the Pend Oreille River, Wash., having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 12, 1912.

1. Respectfully returned to the Secretary of War.
2. By an act approved February 25, 1907, Congress gave its consent to the construction by the Pend d'Oreille Development Co. of a dam across Pend Oreille River at a point near the mouth of Pierwee Creek. This act has expired by limitation, the construction of the dam not having been commenced within the period fixed in the act.
3. The object of the accompanying bill, H. R. 22731, Sixty-second Congress, second session, is to continue the aforesaid privilege, give further time for its exercise, and place it under the provisions of the general dam act approved June 23, 1910.
4. The interests of navigation are amply protected by the measure, and so far as those interests are concerned I know of no objection to its passage by Congress.
5. Attention is invited to the fact that the proposed location is within a few miles of the international boundary line which the Pend Oreille River crosses and empties into the Columbia River in British Columbia, and it is suggested that the committee might consider it desirable to secure the views of the International Joint Commission established under the treaty between the United States and Great Britain respecting boundary waters proclaimed May 13, 1910.

W. H. BIXBY,
Chief of Engineers, United States Army.

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[Third indorsement.]

WAR DEPARTMENT, *April 13, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

The further correspondence herewith attached is made a part of this report:

INTERNATIONAL JOINT COMMISSION,
Washington, D. C., April 22, 1912.

Hon. WM. C. ADAMSON,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

DEAR SIR: I am in receipt of your favor of the 20th instant inclosing copy of H. R. 22731, to extend the time for the construction of a dam across the Pend Oreille River, Wash., with the request that the International Joint Commission furnish the committee with its view regarding the bill. The chairman of the commission is absent from the city at the present writing, but I have communicated with him, forwarding your letter and copy of the bill.

Very sincerely, yours,

L. WHITE BUSBEY,
Secretary.

WINONA, MINN., *April 25, 1912.*

Hon. W. C. ADAMSON,
Chairman Committee Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

MY DEAR MR. ADAMSON: Mr. Busbey, secretary of the International Joint Commission, has forwarded to me your recent letter to him, in which you inclosed a copy of H. R. 22731, now pending before your committee, to extend the time for the construction of the dam across the Pend Oreille River. You also state that the location of the proposed dam "is within a few miles from the international boundary line, which the Pend Oreille River crosses and empties into the Columbia River in British Columbia." You then request the views of the International Joint Commission relative to the bill.

Replying to your request, permit me to say that it is impossible to obtain the views of the commission, as the commission is not now in session, but I will cheerfully comply with your request so far as I myself, and as a member of the commission, am concerned. Assuming that your statement of the facts with respect to the course of the river named is correct, then, and in that case it would seem clear that under the treaty creating the commission the International Joint Commission has no jurisdiction in the premises, and its views on the subject would, therefore, be wholly immaterial. You say the Pend Oreille River crosses the boundary line and empties into the Columbia River in British Columbia.

If you will examine the treaty of January 11, 1909, a copy of which I herewith inclose, you will observe that the proposed obstruction in the Pend Oreille River is clearly within Article II of the treaty. You will also observe, on reading the first paragraph in Article VIII, that the jurisdiction of the International Joint Commission as to the obstruction of boundary waters is limited to cases under the provisions of Articles III and IV.

Article II, for the first time in the history of international agreements, confers upon the inhabitants of either of the two Governments who may be injured by either Government exercising its exclusive jurisdiction and control over the use or diversion, whether temporary or permanent, of all waters on its own side of the line, which, in their natural channels, would flow across the boundaries or boundary waters, the right to invoke the jurisdiction of the courts in the country in which the obstruction is located, and entitles them to the same legal remedies as if such injury took place in the country where such diversion or interference occurs, to recover damages for any injury sustained as the result of such obstruction.

In other words, if, as the result of the authorization and construction of this dam on the American side of the line, any person on the Canadian side who may be injured by reason thereof would, under this treaty, have the right to invoke the jurisdiction of the United States courts for the purpose of recovering damages for the injury thus

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sustained. There is no necessity, therefore, for the International Joint Commission to approve or disapprove of obstructions in waters of this kind, where the obstruction is wholly upon either side of the line, for the individuals have their remedies either in the courts of the United States or in the courts of Canada. For that reason, I assume the high contracting parties did not consider it necessary to include cases of this kind within the jurisdiction of the commission, or rather by Article VIII the high contracting parties expressly exclude cases of this kind from the jurisdiction of the commission.

Of course, if the facts with reference to the course and flow of this river would bring the case within Articles III and IV of the treaty, then and in that case the dam could not be constructed without the approval of the International Joint Commission; but, as I understand from your statement of the facts, the case does not come within either one of the two last-named articles, and, therefore, the International Joint Commission has no jurisdiction over the subject matter of the bill whatever.

Yours, very truly, J. A. TAWNEY.

SPOKANE, WASH., *April 16, 1912.*

Hon. WM. L. LA FOLLETTE,
House of Representatives Annex, Washington, D. C.

MY DEAR WILL: I returned home Saturday night and, as you can appreciate, find an accumulation of work and have been unable to get you the data that you will need in your committee work in regard to bill No. 22731.

I find in going over our accounts that we have paid out to date in the preliminary work in this enterprise in the way of surveys and perfecting flowage rights $34,164.09 and there is now due and to be paid for labor, which I will settle up in a few days, $1,500 and some outstanding contracts for flowage which will be paid as soon as this bill is passed, to the amount of practically $3,500, making a cash payment of $35,664.09 with contingent payments which must be made of an additional $3,500, or a total of $39,164.09.

The overflow land on the Pend Oreille River caused by this development is very slight as it is a river canyon, very deep and precipitous, and I can say to you that 90 per cent of the flowage has been secured and the other 5 per cent will be taken up immediately after the passage of this act. The 5 per cent is simply a small strip of agricultural land covered by the smallest depth of flowage near Box Canyon, which I did not want to pay for until I knew that the bill was passed.

Yours, truly,

WILBUR S. YEARSLEY.

SPOKANE, WASH., *April 17, 1912.*

Hon. WM. L. LA FOLLETTE,
House of Representatives Annex, Washington, D. C.

MY DEAR WILL: It has occurred to me that I overlooked saying to you in my letter of yesterday that the initial investment in the development of the Pend Oreille River will cost two and one-half million dollars and from that on the development should constantly increase, which will add to the taxable property in Stevens County.

In view of the fact that this development is so close to the international boundary line, one of my attorneys here suggested that it might have to be referred to the International Boundary Commission, which I very much doubt. My understanding is that that commission has nothing to do with waterways except where there are questions and conflict. The Pend Oreille River from Metaline Falls to our water site, a distance of 10 miles, and from there on to where it empties into the Columbia River, is not navigable even to a rowboat on account of the rapidity of the stream, except at various eddies where you can cross the river.

I write you this information.

Yours, very truly, WILBUR S. YEARSLEY.

HELENA, MONT, *April 23, 1912.*

Mr. GEO. E. GILLILAND,
Care of The Champlain, Washington, D. C.

MY DEAR GILLILAND: I beg to acknowledge receipt of copies of your letters to Mr. Yearsley. I am also to-day in receipt of a letter from Mr. Yearsley containing copy of a letter which he has written you.

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I can not conceive of any international question being involved in connection with this water power as the entire development is within the State of Washington, and the dam and power plant are 2 miles south of the international boundary. The Pend Oreille River flows north at this point—that is, from the State of Washington into Canada—and hence all back water is the other way; that is, it is upstream into the State of Washington. There will be absolutely no change in the condition of the river where it enters the Canadian territory, either in the amount of water or in any other respect, so I can not see how the International Joint Commission would have any jurisdiction in this matter.

I wanted to make the matter perfectly plain to you so you could explain it to any of the interested parties. I am anxious to get this bill through at this session of Congress. What do you think of the chances?

With kind personal regards, I remain, yours, very truly,

M. H. GERRY, Jr.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 625.

BRIDGE ACROSS LEVISA FORK OF BIG SANDY RIVER.

APRIL 30, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. GOEKE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 23407.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 23407) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Levisa Fork of the Big Sandy River, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 25, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (H. R. 23407, 62d Cong., 2d sess.), authorizing the construction of a bridge across Levisa Fork, Big Sandy River, is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interested are concerned, I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 27, 1912.*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 626.

BRIDGE ACROSS TUG FORK OF BIG SANDY RIVER, MINGO COUNTY, W. VA.

APRIL 30, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. GOEKE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany S. 6167.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 6167) to authorize the Williamson & Pond Creek Railroad Co. to construct a bridge across the Tug Fork of the Big Sandy River at or near Williamson, Mingo County, W. Va., having considered the same, report thereon with amendment and as so amended recommend that it pass.

Amend the bill as follows:

Page 1, line 6, strike out the word "railroad."

The following is the report of the Senate Committee on Commerce:

The Committee on Commerce, to whom was referred the bill (S. 6167) to authorize the Williamson & Pond Creek Railroad Co. to construct a bridge across the Tug Fork of the Big Sandy River at or near Williamson, Mingo County, W. Va., having considered the same, report thereon with a recommendation that it pass without amendment.

The bill has the approval of the War Department, as will appear by the following communication from that department favoring passage of this bill:

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 13, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (S. 6167, 62d Cong., 2d sess.), to authorize the Williamson & Pond Creek Railroad Co. to construct a bridge across the Tug Fork of the Big Sandy River at or near Williamson, Mingo County, W. Va., is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned, I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *April 15, 1912.*

Respectfully returned to the chairman Committee on Commerce, United States Senate, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 627.

GEORGE WASHINGTON MEMORIAL BUILDING.

APRIL 30, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GUDGER, from the Committee on Public Buildings and Grounds, submitted the following

REPORT.

[To accompany S. 5494.]

The Committee on Public Buildings and Grounds, to which was referred the bill (S. 5494) to provide for a site for the erection of a building to be known as the George Washington Memorial Building, to serve as a gathering place and headquarters of patriotic, scientific, medical, and other organizations interested in promoting the welfare of the American people, beg to report the same with the recommendation that the bill, amended as follows, do pass:

After the word "purpose," page 3, section 4, line 21, strike out the period, insert a comma, and add the words:

Provided that the actual construction of said building shall not be undertaken until the sum of one million dollars shall have been subscribed and paid into the treasury of the George Washington Memorial Association.

This bill is a proposition made to the Government by public-spirited citizens and provides that a building, to be known as the George Washington Memorial Building, shall be erected in accordance with plans to be prepared under the supervision of the Commission of Fine Arts, at a cost of not less than $2,000,000, the administration of said building, when erected, to be vested in the Board of Regents of the Smithsonian Institution. The bill further provides for a permanent endowment fund of $500,000, to be administered by the Board of Regents of the Smithsonian Institution, the income from which, as far as necessary, to be used for the maintenance of said building. It also provides that no work shall be commenced on the building until the sum of $1,000,000 shall have been paid into the treasury of the George Washington Memorial Association for the erection of the building, with a further provision that Congress may alter, amend, add to, or repeal any of the provisions of this bill. The bill carries with it no appropriation from Congress, the only request made being for permission from the Government for the George Washington Memorial Association to erect such building on Government property, as provided in section 4 of said bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 628.

HEIGHT OF BUILDINGS IN THE DISTRICT OF COLUMBIA.

MAY 1, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. GEORGE, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany S. 2224.]

The Committee on the District of Columbia, to whom was referred the bill (S. 2224) to amend an act to regulate the height of buildings in the District of Columbia, approved June 1, 1910, having considered the same, report the bill without amendment as it passed the Senate.

The bill amends the law in two particulars. In section 1 of the law the permissible height of combustible or nonfireproof buildings is increased from 50 to 55 feet. In section 7 of the law a change is made that permits parapet walls or balustrades, not exceeding 4 feet in height, to be raised on nonfireproof buildings above the limit of height. Parapet walls are, under the law, forbidden to rise above the limit of height.

The bill was introduced into the Senate at the request of the Commissioners of the District of Columbia, as will appear from the following letter:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, May 8, 1911.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate, Washington, D. C.

SIR: The Commissioners of the District of Columbia have the honor to submit herewith draft of a bill to amend an act to regulate the height of buildings in the District of Columbia, approved June 1, 1910, and to request its enactment.

The present law regulating the height of buildings in the District of Columbia limits the height of combustible or nonfireproof buildings to 50 feet above the sidewalk, and the inclosed draft of bill provides for increasing this limit to 55 feet.

Since the law was enacted a number of cases have been presented to the commissioners where the architectural effect of a building might have been improved had agreater height than 50 feet been permissible under the law It has been found that if a building is to be set on a terrace 4 or 5 feet above the sidewalk, it is impossible to get the ceiling heights desirable for the better class of residences within the limit of 50 feet.

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The present law further provides that no parapet walls shall extend above the limit of height prescribed in the law. The commissioners believe that this restriction should be amended so as to permit on combustible or nonfireproof buildings a parapet wall or balustrade of a height not exceeding 4 feet above the limit now prescribed by law. This change is provided in the amendment to section 7 of the present law, which this bill proposes.

Very respectfully,

BOARD OF COMMISSIONERS OF DISTRICT OF COLUMBIA,
By CUNO H. RUDOLPH, *President.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 630.

SALE OF BLANK MANIFESTS.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIXON of Indiana, from the Committee on Ways and Means, submitted the following

REPORT.

[To accompany H. R. 13392.]

The Committee on Ways and Means, to whom was referred House bill 13392, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

This measure has the approval of the Treasury Department, as indicated by the following letter:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, February 17, 1912.

Hon. O. W. UNDERWOOD,
Chairman Committee on Ways and Means,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, transmitting, with other bills, H. R. 13392, to repeal section 2648 of the Revised Statutes and to authorize the Secretary of the Treasury to keep on sale blank forms for customs purposes at ports and subports of entry and ports of delivery, and elsewhere, at such prices as he may deem proper.

Said section 2648 authorizes collectors and surveyors of customs on the northern, northeastern, and northwestern frontiers to keep on sale blank manifests and clearances required for the business of their districts, and authorizes a charge of 10 cents for each blank that shall be prepared and executed by them.

This statute has been construed for many years to authorize collectors of customs upon the Canadian frontier to sell blank forms of entry papers and to charge the sum of 10 cents each for the same.

While there is nothing in the statutes to require importers to purchase their blank forms from the collectors of customs, the department is informed that it is the almost universal practice of customs brokers, railway and express agents, importers, and other persons transacting customs business at the frontier ports to purchase their blank forms from the collectors of customs; and it appears that in some instances railway and express companies furnish their own forms, but nevertheless pay the collectors of customs therefor. The department is not informed of the amount received by collectors of customs from this source, for the reason that such receipts inure to their own benefit and are not required to be reported to the department or to be accounted for by them It is informed, however, that several collectors of customs

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on the Canadian frontier receive several thousand dollars a year from this source, making their total compensation in excess of that received by the collectors of customs at Philadelphia, New York, Boston, and other large ports of entry.

The department is of the opinion that this condition authorized by statute is detrimental to the best interests of the Government, as a large part of the receipts of collectors of customs on the northern, northeastern, and northwestern frontiers is thereby made dependent upon the good will of the brokers, railway and express companies, and importers doing business at their ports, whose interests in such matters are not always identical with those of the Government.

There is no law authorizing the department to keep on sale blank forms for customs purposes or authorizing their sale by customs officers at ports other than those on the northern, northeastern, and northwestern frontiers, and the department has received many complaints from occasional importers at small ports of entry and delivery that they are unable to procure the blank forms necessary to make entry of their merchandise otherwise than by the employment of a customs broker at an expense which they desire to avoid, and that they are therefore forced to employ such brokers in order to transact their customs business.

The bill if enacted would relieve persons making importations through such frontier ports from the charge now made of from 20 cents to 60 cents on each entry. It would avoid the difficulty now experienced by importers at many interior and seaboard ports in securing the forms necessary to make entry, since such forms can be printed and sold by the department at a comparatively small price.

It would, furthermore, permit of a standardization of the forms used in the customs service, and repeal the existing legislation under which a number of collectors of customs receive large sums annually from parties doing business with the Government, the amount of which depends to a large extent upon their retaining the good will of such parties.

The department therefore believes that the proposed legislation will be in the interest of the general public as well as of the Government, and recommends the enactment of said bill.

Respectfully,

FRANKLIN MACVEAGH,
Secretary.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 631.

APPROPRIATIONS FOR THE RELIEF OF SUFFERERS FROM FLOODS IN THE MISSISSIPPI AND OHIO VALLEYS.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. FITZGERALD, from the Committee on Appropriations, submitted the following

REPORT.

[To accompany H. J. Res. 312.]

The Committee on Appropriations, to whom was referred House Documents Nos. 688, 704, and 711, transmitting estimates of appropriations required for the relief of flood sufferers in the Mississippi and Ohio Valleys, report with favorable recommendation the accompanying joint resolution, making appropriations as follows:

Quartermaster's Department: Tents, supplies, services, etc	$277,179.65
Commissary Department: Rations issued and to be issued	420,000.00
Total	697,179.65

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 632.

AMERICAN TRADE AND FOREIGN SHIPPING MONOPOLIES.

MAY 1, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 23470.]

The Sherman antitrust law invests the several courts of the United States with jurisdiction to prevent and restrain violations of the act, and the Supreme Court has given very broad construction to this enactment. In the Northern Securities case (193 U. S., 197) Justice Harlan, in writing the opinion of the court, said:

> If there was a combination or conspiracy in violation of the act of Congress between the stockholders of the Great Northern and the Northern Pacific Railway Cos., whereby the Northern Securities Co. was formed as a holding corporation, and whereby interstate commerce over the lines of the constituent companies was restrained, it must follow that the court, in execution of that act, and to defeat the efforts to evade it, could prohibit the parties to the combination from doing the specific things which, being done, would affect the result denounced by the act. To say that the court could not go so far is to say that it is powerless to enforce the act or to suppress the illegal combination, and powerless to protect the rights of the public as against that combination. (Pp. 356–357.)

In the case of United States *v.* American Tobacco Co. the court held that, in order to enable it to award relief coterminous with the ultimate redress of the wrongs which it found to exist, it must approach the subject of relief from an original point of view, and stated that—

> We might at once resort to one or the other of the two general remedies—(*a*) the allowance of a permanent injunction restraining the combination as a universality and all the individuals and corporations which form a part of or cooperate in it in any manner or form from continuing to engage in interstate commerce until the illegal situation be cured, a measure of relief which would accord in substantial effect with that awarded below to the extent that the court found illegal combinations to exist; or (*b*) to direct the appointment of a receiver to take charge of the assets and property in this country of the combination in all its ramifications for the purpose of preventing a continued violation of the law, and thus working out by a sale of the property of the combination or otherwise, a condition of things which would not be repugnant to the prohibitions of the act. (221 U. S., pp. 186–187.)

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Nevertheless, for the reasons stated in the opinion, the court remanded the case to the circuit court for the purpose of working out a plan or method of dissolving the combination before the court in that case and of recreating out of the elements composing it a new condition honestly in harmony with and not repugnant to the law.

In the equity suits brought by the Attorney General against the North Atlantic shipping pool and the Asiatic shipping pools, respectively, the prayer for relief, among other things, asked the court to adjudge the combination to be illegal and to enjoin the ships employed in the combination from making clearance at the ports of the United States until such combination shall be dissolved. There seems to be no doubt of the power of the Federal courts under the act, as construed by the Supreme Court, to award such relief, if it shall deem it necessary, in order to accomplish the ends of justice; but such relief would be secured under the existing law only by way of injunction against the owners of the ship from making entry or applying for clearance, whereas there is no distinct prohibition against the officials of the United States acting upon such applications. In order to make it perfectly clear that in case of an adjudication that an unlawful combination of shipowners exists in violation of the Sherman antitrust law, a dissolution of that combination may be effectually secured by prohibiting all entry and clearance privileges until the combination is dissolved. This bill makes it unlawful for such vessel or vessels to so enter or clear until the court shall find that the unlawful combination has been dissolved and imposes a penalty upon the vessel which makes entry or clearance in violation of the provisions of such decree. It also authorizes and directs the Postmaster General to cancel any contract for carrying the ocean mails upon satisfactory evidence to him that any vessel performing such service under such contract at the time of performing service is owned, operated, or controlled by any party to such unlawful combination.

The act, therefore, makes more effectual the remedies for violation of the law and will tend to compel foreign shipowners to respect a law which they are now systematically violating.

It is a matter of common knowledge that more than 90 per cent of the over-sea trade of this country is carried by foreign ships that belong to rings, pools, conferences, and combines. Between these ships there is absolutely no competition. Each conference or combine is a complete monopoly. Freight and passenger rates are fixed by agreement. The lines in these combines distribute the business, pool their earnings, and divide their profits. They agree as to the number of vessels that each company shall run. They agree as to the amount of traffic that each line shall carry. They combine to drive out any independent lines. To do this they designate what they call "fighting" ships, and these ships are run over the same course on practically the same schedule as the independent vessels, with instructions to cut rates to any extent necessary to drive the independent line out of business. When this is accomplished the loss sustained is divided among the lines in the combine.

These foreign steamship monopolies also largely dictate the ports of this country through which both freight and passenger traffic shall pass. They also largely control railroad rates in this country, both freight and passenger. Our railroad agents are instructed that they will

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receive no commission on the sale of passenger tickets from interior points to Europe unless that ticket reads over one of the conference lines of steamships.

These foreign monopolies also practice the rebate system in all its iniquitous and devious ways. The rate that every ton of freight and every passenger must pay to cross the Atlantic Ocean is fixed by written agreement made in advance in Europe. In the fixing of these rates American interests are not considered. Only the interests of the foreign steamship lines are represented.

The foreign steamship combinations carrying our over-sea trade are the most complete monopolies in the world. Being monopolies, their rates are unjust and oppressive. The rates between this country and Europe and between this country and South America are exorbitant and far higher than a fair compensation for the services performed. These combines annually unjustly levy millions upon American commerce. To a great extent they have destroyed our foreign trade, not only by exorbitant freight rates, but by discriminating against us in all the ports of the world in favor of the products of their own country. These lines admit all the charges that have been made against them—that they are in combination to suppress competition; to fix rates; to increase their earnings; to advance the commercial interests of the nation whose flag they fly. They admit that they openly violate our law. Their answer to these charges is that what they do is legal in their own country; that they do not believe in the laws of our country or have any respect for them, and they ask this question: "We are foreign ships belonging to foreign corporations and owe allegiance to a foreign government and if we do not choose to obey your laws what are you going to do about it?"

This bill is answer to this impudent and defiant question. This country will not have one law for our own people and another for the foreigner that does business in this country. We are to-day in a most humiliating condition. Our ships have practically disappeared from the sea. Our commerce is at the mercy of foreigners. They dictate the terms upon which it is carried and openly violate our laws. It is not conceivable that this Government stands helpless before this giant foreign monopoly.

It is the unanimous report of the committee that the bill do pass.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 633.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JOHNSON of South Carolina, from the Committee on Appropriations, submitted the following

REPORT.

[To accompany H. R. 24023.]

In presenting the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, the Committee on Appropriations submit the following in explanation thereof:

The estimates on which the bill is based will be found on pages 9 to 108, inclusive, of the Book of Estimates for the fiscal year 1913, and amount to $35,684,347.40.

The total appropriations made for the current fiscal year 1912 for the objects provided for in the accompanying bill amount to $36,157,209.85, which sum includes $500,000 for the Thirteenth Census, appropriated at the present session in the urgent deficiency act, and also $225,665, the amount expended at the mints during the fiscal year 1911 out of the permanent appropriation for parting and refining bullion, which sum is used by the Treasury in approximating the total appropriations for mints and assay offices for the fiscal year 1912. The permanent appropriation in question is repealed, to take effect at the close of the current fiscal year, and therefore specific appropriations are necessarily made in this bill in its stead for the next year.

The accompanying bill appropriates $33,519,594.06 and makes specific appropriations for 14,877 salaries.

Comparing it with the appropriations for the current year and with the estimates submitted to Congress for the ensuing fiscal year, the following results are shown, namely:

It appropriates $2,637,615.79 less than was appropriated for the same service for the current year.

It appropriates $2,164,753.34 less than was submitted to Congress in the estimates of the departments.

It provides for 406 fewer specific salaries than are appropriated for this year.

It provides for 706 fewer salaries than were recommended in the estimates, or 603, less than were specifically estimated for after deduct-

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ing the 103, now payable from a general appropriation, in the Supervising Architect's office whose status as to mode of payment is not changed by the bill.

It should also be added that the bill provides for no increase in salaries or rates of compensation for the next fiscal year over those being paid during this fiscal year, except in the one case of a janitor, whose pay was inadvertently reduced the current year to $750 and is now recommended to be restored to $840.

Appropriations for fuel for the Capitol power plant, amounting to $83,000, are omitted from this bill with the purpose of considering and providing for the same in the sundry civil bill, where other expenses of the power plant are provided for. Taking this transferred sum into account, the apparent reduction of the accompanying bill under appropriations is $2,554,615.79.

In addition to the considerable reductions that are specifically recommended in the salary roll of the Government a general provision, quoted at length at another point in this report, is recommended in the bill that will prevent the filling of vacancies, except by promotion, occurring in the classified service at Washington during the ensuing fiscal year.

There is also recommended, as quoted elsewhere in this report, a provision requiring the Secretary of War to reorganize the classified service of the War Department as provided for in the bill so as to reduce the whole number of the force not less than 10 per cent, the salaries of all places embraced in such reduction to lapse and be covered into the Treasury.

TREASURY REDUCTIONS.

It should be stated, in justice to the Treasury Department, that of the total decrease of 406 existing specific employments, proposed by this bill, in all of the executive departments, 164 of them are in the Treasury Department alone, and practically all of that reduction is made on its initiative in submitting the estimates to Congress at the beginning of this session. It is interesting and important also in this connection to state that during the last Congress, in providing for the Treasury Department for the fiscal years 1911 and 1912, a total reduction was made of 342 salaried places with annual compensation amounting to $294,140; added to the number diminished in this bill, the total reduction in places in the Treasury Department for the three fiscal years, 1911, 1912, and 1913, amounts to 506 specific employments, with annual pay amounting to $501,480.

This represents a reduction for the three years of 14 per cent in the total number of persons employed in the Treasury during the fiscal year 1910, and almost, if not quite, as large a per cent of reduction in the aggregate of salaries paid that year.

As a set-off to this large reduction in annual expenditures for salaries, for the three years there has been appropriated, including amounts in this bill, the sum of $58,970 for labor-saving devices, the use of which will continue over an indefinite period of years, and for material and rental of machines an annual expense is provided for of $76,800. The latter is wholly for the office of the Auditor for the Post Office Department, in which office alone there have been and will be abolished during the three fiscal years 176 places, with total annual salaries amounting to $208,860.

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USE OF FIGURES IN EXPRESSING SUMS OF MONEY.

The bill as printed proposes innovations in appropriation legislation by expressing all sums of money in figures instead of spelling them out at length as heretofore, and by grouping, as nearly as possible, all offices or employments by titles or designations and appropriating for them by numbers and rates of compensation, thus avoiding much needless repetition.

The committee have given careful consideration to both of these rather radical departures from long-established custom in methods of legislation, and have taken counsel concerning the same with the Comptroller of the Treasury, the Public Printer, and other officials whose duties bring them into intimate relation with the matter of appropriations and expenditures or who are familiar with the art of printing, and are therefore competent to advise as to the possibility of error in thus expressing the appropriation of money, and have found a general concurrence in the opinion that the proposed changes will facilitate ready comprehension of items in the bill in the course of its detailed consideration in the House; that it will not increase the possibility of errors in engrossment and enrollment; and that it will materially reduce the present great volume of appropriation legislation—an end much to be desired in view of the large bulk and increasing number of volumes required in publishing the laws after the adjournment of each Congress. These innovations, if found practicable and meet with approval by the House and Senate, will, if applied to all appropriation bills, materially reduce the unwieldy bulk of the session laws.

CHANGES IN SPECIFIC EMPLOYMENTS.

The specific changes in the numbers or grades of officers or employees of the Government and their rates of compensation, as compared with the present law and without reference to transfers from one bureau to another, recommended in the bill are as follows:

SENATE.

The bill appropriates for officers, clerks, and other employees in the service of the Senate in the same terms as the law for the current year, except that for certain employees the usual reduction is made growing out of the shorter term of their employment during the ensuing session as compared with the present longer session of Congress; a reduction is made, in accordance with the estimates, of 5 clerks at $2,000 each and 10 stenographers at $1,200 each to Senators who are not chairmen of committees; and a reduction is also recommended of 10 policemen in the Senate Office Building, providing for the same number for that service as is provided for in the House Office Building.

The appropriations of $18,480 for miscellaneous items on account of the Maltby Building, and $3,600 for rent of the warehouse for the storage of public documents for the Senate, are also omitted.

CAPITOL POLICE.

In accordance with the provisions of House joint resolution 75, passed by the House May 26, 1911, a reduction is made in the Capitol police of 1 lieutenant at $1,200 and 34 privates at $1,050 each.

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HOUSE OF REPRESENTATIVES.

In accordance with the last apportionment act, provision is made for 42 additional representatives at the rate of $7,500 per annum from March 4, 1913, to June 30, 1913.

In compliance with the resolution of the House, adopted May 9, 1911, the following reduction is made in employees, namely:

1 assistant stenographer to committees	$2,000
1 janitor to official reporters	800
1 janitor to committee stenographers	720
Under the Clerk:	
1 assistant Journal clerk	2,200
1 index clerk	2,500
1 assistant index clerk	1,700
1 stenographer to Journal clerk	980
1 janitor to index room	840
1 janitor	720
1 printing and bill clerk	2,700
1 notification clerk	2,300
1 distributing clerk	2,250
1 document and bill clerk	2,100
1 resolution and petition clerk	2,000
1 printing and document clerk	2,000
1 assistant enrolling clerk	1,800
1 assistant printing and bill clerk	1,800
1 document clerk	1,900
1 superintendent	1,800
1 special employee	1,580
1 assistant	980
1 telegraph operator	1,400
1 assistant operator	1,400
1 messenger, disbursing office	1,100
1 clerk	1,680
1 page	900
1 assistant, bathroom	1,400
1 laborer, bathroom	900
1 janitor, Clerk's office	840
1 janitor, House library	800
1 janitor, file room	800
1 assistant in Clerk's office	1,600
1 assistant, stationery room	2,000
Under Sergeant at Arms:	
1 clerk in charge of pairs	1,800
1 assistant bookkeeper	1,200
1 captain of police, House Office Building	1,600
1 lieutenant, police, House Office Building	1,200
5 privates, police, at $1,050 each, House Office Building	5,250
Under the Doorkeeper:	
1 clerk to Doorkeeper	1,200
1 Assistant Doorkeeper	2,500
2 attendants, old library space, at $1,500 each	3,000
1 chief clerk	2,000
1 clerk	1,600
2 assistant foremen, at $1,200 each	2,400
2 night watchmen, at $720 each	1,440
9 messengers, at $1,180 each	10,620
6 laborers, at $720 each	4,320
1 skilled laborer	820
1 laborer in water-closet	840
69	92,280

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Further reductions in compensation and number of employees of the House are recommended in the bill, namely:

3 session clerks to committees, at $6 per day each	$2,160
1 janitor, Committee on Expenditures in the Navy Department	720
2 messengers in the majority and minority caucus rooms, at $1,200 each	2,400
The pay of the department messenger is reduced from $2,250 to $2,000, and provision is made for his appointment by the minority leader of the House.	250
6	5,530

Under authority of resolutions of the House, provision is recommended for the following employees:

Office of the Clerk, resolution of May 9, 1911:	
1 chief bill clerk	$3,000
4 assistants to the bill clerk, at $1,500 each	6,000
1 stenographer	1,000
Resolution of February 6, 1912:	
1 janitor to official reporters, during the session	240
7	10,240

LIBRARY OF CONGRESS.

An additional assistant at $1,200 is provided for in the reading room, to take the place of a similar position now carried under the free public library of the District of Columbia.

EXECUTIVE OFFICE.

The salary of the Secretary to the President is reduced from $7,500 to $6,000, to take effect on and after March 4, 1913.

DEPARTMENT OF STATE.

Three additional clerks—1 at $1,800, 1 at $1,600, and 1 at $1,000—are provided for; the appropriation of $2,000 for emergency clerical services is omitted, and the lump sum of $25,340, heretofore available for employees in connection with foreign trade relations, is also omitted.

A provision is recommended abolishing the Bureau of Manufactures under the Department of Commerce and Labor, with 27 employees and salaries amounting to $36,600, and transferring the duties of the said bureau to the Department of State.

TREASURY DEPARTMENT.

Office of the chief clerk.—A reduction is recommended of 1 watchman, at $720; 6 charwomen, at $240 each; 5 cabinetmakers, 4 at $1,000 each and 1 at $720; and 1 watchman-fireman, at $720.

An increase is recommended of 1 plumber's assistant at $720, and 3 carpenters, 2 at $1,000 each and 1 at $720.

Division of Bookkeeping and Warrants.—A reduction is recommended of 1 clerk, at $1,200.

Division of Public Moneys.—A reduction is recommended of 1 clerk, at $900.

Division of Loans and Currency.—Certain transfers from the register's office are provided for without change in rate of pay or increase in numbers.

Division of Mails and Files.—A superintendent of mails, at $2,000, instead of a chief of division, at $2,500; a distributing clerk, at $1,400; and 1 document clerk, at $1,000, are provided for.

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Reductions are recommended as follows: Four clerks, at $1,400 each; additional to 1 clerk of class 2 in charge of documents, $200; 1 clerk, at $1,200; 6 clerks, at $1,000 each; 2 clerks, at $900 each; 1 assistant messenger, at $720; 1 assistant to document clerk, at $840; and the pay of a mail messenger is reduced from $1,200 to $1,000.

Office of disbursing clerk.—Aside from certain transfers to this office, an increase is recommended of 1 clerk at $1,800 and 1 clerk at $1,400.

Office of Supervising Architect.—A reorganization of the force of this office is recommended resulting in a net reduction of 7 employees and $13,740 in the total amount of compensation; no salaries are increased and no new places are created, although some changes in designation are recommended.

A provision is recommended making specific appropriation for 103 employees in this office who are now employed and being paid from the lump appropriation for "General expenses of public buildings" carried in the sundry civil act; their present rate of compensation not being increased or their numbers added to; it is required that specific estimates shall be submitted for these employees for the fiscal year 1913 and annually thereafter.

Office of the Comptroller of the Treasury.—A reduction is recommended of 1 law clerk, at $2,000, and 1 laborer, at $660.

Office of the Auditor for the Treasury Department.—A reduction is made of 1 chief of division, at $2,000; 2 clerks, at $1,200 each; 4 clerks, at $1,000 each; 2 clerks, at $900 each; and 1 laborer, at $660.

Office of the Auditor for the War Department.—A reduction is recommended of 10 clerks, at $1,400 each; 2 clerks, at $1,200 each; 9 clerks, at $1,000 each; and 1 laborer, at $660.

An additional messenger boy, at $480, is recommended.

Office of the Auditor for the Navy Department.—A reduction is made of 1 clerk, at $900

Office of the Auditor for the Interior Department.—A reduction is recommended of 5 clerks, at $1,200 each, and 5 clerks, at $1,000 each.

Office of the Auditor for State and Other Departments.—A reduction is recommended of 1 clerk at $900 and 1 laborer at $660.

Office of the Auditor for the Post Office Department.—A reduction is recommended of 8 clerks, at $1,800 each; 18 clerks, at $1,600 each; 20 clerks, at $1,400 each; 16 clerks, at $1,200 each; 10 money-order assorters, at $660 each; 1 female laborer, at $660; 3 laborers, at $660 each; and 2 charwomen, at $240 each.

Authority is recommended for the necessary employees, with total compensation not exceeding $50,000 during the next fiscal year, to audit the accounts of the postal savings system, the same to be paid out of the appropriation for that system and with the requirement that estimates in detail shall be submitted for this force for the fiscal year 1914 and annually thereafter.

Office of the Treasurer.—A reduction is recommended of 2 chiefs of division, at $2,500 each; 1 assistant chief of division, at $2,250; 1 clerk, at $1,600; 2 clerks, at $1,200 each; 1 clerk, at $1,000; and 2 clerks, at $900 each.

A reduction of 1 clerk at $700 is recommended in the force of the office employed in redeeming national currency.

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A provision is inserted authorizing employment of necessary clerks in connection with the postal savings system at a cost not exceeding $18,000 for the fiscal year 1913, the same to be paid from the appropriation for postal savings system, with the requirement that estimates be submitted in detail for such force for the fiscal year 1914 and annually thereafter.

Bureau of Engraving and Printing.—Provision for a medical and sanitary officer at $2,000 is recommended, and 1 clerk at $780 is omitted.

Secret Service Division.—The salary of the chief is reduced from $4,000 to $3,600.

Office of the Director of the Mint.—A reduction is made of 1 adjuster of accounts at $2,500 and 1 clerk at $1,200.

INDEPENDENT TREASURY.

Office of assistant treasurer at Boston.—The following reductions in pay are recommended: Paying teller from $2,500 to $2,250; 1 clerk at $2,000 instead of 1 assistant paying teller at $2,200; 1 vault clerk from $2,000 to $1,800; 2 specie clerks from $1,650 to $1,600 each; and 3 watchmen from $850 to $840 each.

An additional laborer and guard is recommended at $720.

Office of assistant treasurer at Cincinnati.—An increase is recommended of 2 clerks at $1,300 each.

Office of assistant treasurer at New Orleans.—The pay of receiving teller is reduced from $2,000 to $1,800, and a clerk at $1,400 is recommended instead of a bookkeeper at $1,500.

Office of the assistant treasurer at New York.—The force in this office is reorganized in accordance with the recommendations of the Treasury Department; a reduction is made of 9 in the number of employes and $21,250 in the total pay.

The titles of many of the employees are changed and salaries reduced, as recommended in the estimates, but in no case does any change involve an increase of compensation.

Office of the assistant treasurer at Philadelphia.—The salary of the paying teller is reduced from $2,300 to 2,250, and 1 clerk from $1,200 to $1,000; 1 watchman at $720 is omitted.

Office of the assistant treasurer at St. Louis.—The salaries of 2 clerks are reduced from $1,200 to $1,100 each.

An additional guard is recommended at $720.

Office of the assistant treasurer at San Francisco.—A reduction is recommended in the salaries of 1 bookkeeper from $2,250 to $2,000; the receiving teller from $2,250 to $2,000; and the assistant bookkeeper from $2,000 to $1,800.

MINTS AND ASSAY OFFICES.

A provision is recommended abolishing the coinage mints at San Francisco, New Orleans, and Carson, and the assay offices at Boise, Charlotte, Deadwood, Helena, Seattle, and Salt Lake; the appropriations for the same being omitted, except in the case of the mint at San Francisco, which is provided for as an assay office; the total appropriations for mints and assay offices are reduced from

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$1,319,755 to $997,700, a decrease of $322,055; the total number of salaries is reduced in the aggregate by 42.

A further provision is inserted abolishing the positions of coiner and melter and refiner in the coinage mints and the assay office at New York and substituting in their stead superintendents of melting and refining and coining departments; and the salaries of the superintendents of the coining departments are reduced from $3,000 to $2,500 each.

GOVERNMENT IN THE TERRITORIES.

The appropriations for expenses of government in the Territories is reduced from $182,650 to $155,150, a decrease of $27,500, and the whole number of salaries in connection therewith is reduced by 18, which reductions are consequent on the admission of New Mexico and Arizona as States.

WAR DEPARTMENT.

Office of the Quartermaster General.—A reduction is made of 1 clerk at $900, 1 draftsman at $1,200, and 1 writer of specifications at $1,200.

Office of the Commissary General.—A reduction is made of 1 clerk at $900.

Office of the Surgeon General.—A fireman at $720 is provided for instead of an assistant engineer at $900.

Office of the Chief of Engineers.—The amount authorized to be used from certain lump appropriations is reduced from $42,000 for 1912 to $40,000 for 1913.

STATE, WAR, AND NAVY DEPARTMENT BUILDING.

A reduction is recommended of 9 watchmen at $720 each.

NAVY DEPARTMENT.

Bureau of Navigation.—A reduction is recommended of two copyists at $840 each.

Bureau of Equipment.—A clerk at $1,600 is provided for instead of a draftsman at $1,700.

Instead of a general provision authorizing expenditures not exceeding in the aggregate $125,000 for personal services to be paid out of the general appropriation for "Increase of the Navy" in the Bureaus of Ordnance, Equipment, Steam Engineering, and Construction and Repair, specific provisions are made under each of these bureaus authorizing, during the next fiscal year, expenditures of this character payable from that appropriation in sums not exceeding the amounts actually expended during the last fiscal year except in the case of the Bureau of Ordnance the sum that may be expended is increased by $7,600.

Hydrographic Office.—Eighteen additional employees with pay amounting to $20,560 are recommended in order to enable the Hydrographic Office to produce charts from metallic plates by photolithographic processes.

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Naval Militia Office.—Provision is made for one chief clerk at $1,600, one stenographer at $1,200, and one messenger boy at $600.

The committee ascertained that the foregoing employees were being paid under authority of a provision carried in the last naval appropriation act and out of the appropriation for "Arming and equipping the Naval Militia."

DEPARTMENT OF THE INTERIOR.

Office of the Secretary.—A reduction is made of 10 watchmen, at $720 each.

Old Post Office Building.—A reduction is recommended of five watchmen, at $720 each.

General Land Office.—The salary of the chief of the division of surveys is reduced from $2,750 to $2,400.

Indian Office.—It was ascertained by the committee that there are now and have been, for sometime past, employed in this bureau a number of persons who are paid from appropriations carried in the Indian appropriation act, and not deeming it wise at this time to bring about a complete reorganization of this office and make permanent provision for such of these employees as might be permanently required, they have recommended legislation requiring detailed estimates to be submitted for the fiscal year 1914 and prohibiting thereafter employment of any personal services in this office other than such as shall have been specifically appropriated for in the legislative, executive, and judicial appropriation acts.

Pension Office.—Reductions are recommended of one deputy commissioner, $3,600; two engineers, at $1,200 each; three firemen, at $720 each, and eight watchmen, at $720 each.

SURVEYOR GENERAL.

The office of surveyor general of South Dakota, at $2,000, is omitted.

POST OFFICE DEPARTMENT.

Office of the Postmaster General.—A reduction is recommended of seven watchmen, at $720 each.

DEPARTMENT OF JUSTICE.

A reduction is recommended of one Assistant Attorney General, at $5,000, and of six clerks, one at $1,400, one at $1,200, two at $1,000 each, and two at $900 each, and an assistant attorney at $3,500 is recommended in lieu of an attorney in charge of titles at that salary.

A provision is recommended requiring that hereafter the administrative audit of all expenditures under the control of the department shall be made in the Division of Accounts of that department.

DEPARTMENT OF COMMERCE AND LABOR.

Office of the Secretary.—A reduction is recommended of 3 clerks, 1 at $1,400, 1 at $1,200, and 1 at $1,000.

The appropriation of $60,000 for compensation and expenses of commercial agents is omitted.

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Bureau of Manufactures.—The appropriations for this bureau are omitted and a provision is recommended, as heretofore stated, abolishing the same and transferring its duties to the Department of State.

Bureau of Labor.—A reduction is recommended of 1 messenger at $840.

Census Office.—The salaries and expenses of the Census Office have been paid, for the current and two past fiscal years, out of the lump appropriations made for expenses of taking the Thirteenth Census. That work will be practically completed at the end of the current fiscal year, and accordingly estimates have been submitted in the usual form and in detail for the ensuing fiscal year and appropriations are recommended in this bill based upon those estimates. Compared with the detailed appropriations for the office for the fiscal year 1909, the accompanying bill provides for 15 fewer positions and $8,520 less in aggregate salaries.

There is also recommended in the bill an appropriation of $120,000 for temporary clerks to complete the work of the Thirteenth Census.

Bureau of Statistics.—A provision is recommended abolishing the Bureau of Statistics and transferring its duties to the Census Office; providing therefor 60 employees with salaries of $69,640, instead of 57 employees, now engaged in the Bureau of Statistics, with salaries amounting to $73,650.

Shipping service.—A reduction of the shipping commissioners is recommended as follows: At Bath, $1,000; Gloucester, $600; Honolulu, $1,200; Mobile, $1,200; Norfolk, $1,500; Pascagoula, $300; and Rockland, $1,200. Salaries of commissioners are reduced as follows: New Bedford, from $1,200 to $1,000; New York, from $5,000 to $4,000; Providence, from $1,800 to $1,700; and San Francisco, from $4,000 to $3,600.

The appropriation for clerks in the offices of shipping commissioners is increased from $33,000 to $35,000.

The pay of the janitor in the New York shipping commissioner's office is restored to $840 from $750, to which latter figure it was inadvertently reduced for the current year.

Division of naturalization.—An increase is recommended of 1 clerk at $1,600.

JUDICIAL.

Circuit judges.—A provision is recommended prohibiting the appointment of additional circuit judges until the whole number shall be reduced to 29, and that thereafter there shall not be more than 29 circuit judges.

District judges.—Two additional district judges at $6,000 each are recommended for the States of Arizona and New Mexico, the same having been authorized by law.

Provision for the clerk of the district court for the northern district of Illinois, at $3,000, is omitted.

Commerce Court.—The appropriations for the Commerce Court, including the salaries of 4 employees, are omitted and a provision is recommended abolishing the court.

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LIMITATIONS.

Limitations with respect to expenditures or legislative provisions within clause 2 of Rule XXI of the House, not heretofore enacted, are recommended as follows:

On page 29:

On and after March fourth, nineteen hundred and thirteen, the salary of the Secretary to the President shall be at the rate of $6,000 per annum.

On page 31:

Members of the Civil Service Commission and its duly authorized representatives are hereafter authorized to administer oaths to witnesses in any matter depending before the Civil Service Commission.

On page 33:

Section five of the act of February fourteenth, nineteen hundred and three, entitled "An act to establish the Department of Commerce and Labor," is repealed, and the duties therein prescribed in relation to the promotion and development of the commerce abroad for the manufactured and other products of the United States, including the gathering, compiling, publishing, and supplying of valuable and useful information in regard to industries and markets abroad shall hereafter devolve upon the Department of State, under such regulations as the Secretary of State may prescribe, and all laws inconsistent herewith are repealed.

On page 40, with reference to the Supervising Architect's Office:

For the fiscal year nineteen hundred and fourteen and annually thereafter specific estimates shall be submitted for salaries for all personal services of the foregoing character required in the office of the Supervising Architect of the Treasury, and except as appropriations may be made thereunder no such personal services shall be employed in said office at Washington, District of Columbia.

On page 43:

Provided, That the Secretary of the Treasury may, during the fiscal year nineteen hundred and thirteen, in his discretion, diminish the number of positions of the several grades below the grade of clerk at $1,000 per annum in the office of the Auditor for the Post Office Department and use the unexpended balances of the appropriations for the positions so diminished as a fund to pay, on a piece-rate basis, to be fixed by the Secretary of the Treasury, the compensation of employees engaged in tabulating, by the use of mechanical devices, the accounts and vouchers of the postal service.

On page 43:

Postal Savings System, audit of the accounts of, office of Auditor for the Post Office Department.—The Secretary of the Treasury may employ such number of clerks and employees of the several classes and at the several rates of compensation recognized by law, and expend such sums for contingent and miscellaneous items, as may be necessary, in his judgment, to audit the accounts of the postal savings system in the office of the Auditor for the Post Office Department: Provided, That the money required to pay such clerks and employees, and contingent and miscellaneous items, not exceeding $50,000 for the fiscal year nineteen hundred and thirteen, shall be advanced to the Secretary of the

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Treasury at regular intervals out of any available appropriation for the establishment, maintenance, and extension of postal savings depositories: Provided further, That estimates hereunder shall be submitted in detail for the fiscal year nineteen hundred and fourteen and annually thereafter.

On page 45:

The Secretary of the Treasury may employ such number of clerks and employees of the several classes and at the several rates of compensation recognized by law, and expend such sums for contingent and miscellaneous items, as may be necessary, in his judgment, to transact the business of the Postal Savings System in the office of the Treasurer of the United States: Provided, That the money required to pay such clerks and employees, and contingent and miscellaneous items, not exceeding $18,000 for the fiscal year nineteen hundred and thirteen, shall be advanced to the Secretary of the Treasury at regular intervals out of any available appropriation for the establishment, maintenance, and extension of postal savings depositories: Provided further, That estimates hereunder shall be submitted in detail for the fiscal year ninteen hundred and fourteen, and annually thereafter.

On page 56:

On and after July first, nineteen hundred and twelve, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed sixty-two.

On page 62:

All laws or parts of laws authorizing the establishment of coinage mints at San Francisco, California; New Orleans, Louisiana; and Carson, Nevada; and assay offices at Boise, Idaho; Charlotte, North Carolina; Deadwood, South Dakota; Helena, Montana; Seattle, Washington; and Salt Lake, Utah, are repealed, to take effect July first, nineteen hundred and twelve; but nothing herein shall be construed as abolishing or prohibiting the maintenance of an assay office at San Francisco, California.

The position of coiner, which has heretofore existed in each of the coinage mints, and the position of melter and refiner, which has heretofore existed in each of the coinage mints and in the United States assay office at New York, are hereby abolished, to take effect on and after July first, nineteen hundred and twelve, and on and after that date the duties and responsibilities heretofore imposed by law on the officers holding said positions in each of said mints and the assay office shall devolve upon the superintendents of said institutions; and all assistants and employees of the mints and assay offices of the United States shall, from and after July first, nineteen hundred and twelve, be appointed by the Secretary of the Treasury.

On page 67:

On or before the thirtieth day of June, nineteen hundred and twelve, the Secretary of War shall cause a reorganization to be made of the clerical and other office force of the War Department, herein provided for, so as to reduce the whole number of said force not less than ten per centum, and the salaries or compensation of all places herein provided for in said department that may be embraced within such reduction shall not be available for expenditure, but shall lapse and be covered into the Treasury.

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On page 90, with reference to the appropriation for the "Naval Militia Office":

* * * *and no other or further sums shall be expended from said appropriation for or on account of said Naval Militia Office; but all other expenses on account thereof shall be paid out of the appropriations for contingent expenses and for printing and binding for the Navy Department. as in the case of other like expenses of that department.*

On page 96:

For the fiscal year nineteen hundred and fourteen, and annually thereafter, estimates in detail shall be submitted for all personal services required in the Indian Office, and after the end of the fiscal year nineteen hundred and thirteen it shall not be lawful to employ in said office any personal services other than those specifically appropriated for in the legislative, executive, and judicial appropriation acts, except temporary details of field employees for service connected solely with their respective employments.

On page 98:

No transfers from the Pension Office existing July first, nineteen hundred and twelve, shall be returned to said office.

On page 116, in connection with the appropriation for three attorneys at $5,000 each:

* * * *one of whom shall have charge of all condemnation proceedings in the District of Columbia and supervise the examination of titles and matters arising therefrom in which the United States shall be a party or have an interest, and no special attorney or counsel, or services of persons other than of those provided for herein, shall be employed for such purposes;* * * *

On page 117:

The administrative audit of all expenditures under the control of the Department of Justice shall hereafter be made in the Division of Accounts of that department.

On page 122 in connection with the Census Office:

In certifying eligibles from the civil-service registers for the purpose of appointment to positions of clerkships in the Census Office hereinbefore provided for at salaries of $1,200 or less, the Civil Service Commission shall, so far as practicable under the law of apportionment, certify those who have had at least one year's experience in census work.

On page 125:

The Bureau of Statistics of the Department of Commerce and Labor is abolished, to take effect July first, nineteen hundred and twelve, and the duties required by law to be performed by that bureau are transferred to and shall after that date be performed by the Census Office; and the appropriations for contingent expenses, rent, and printing and binding for the Department of Commerce and Labor shall be available for expenditure on account of the Division of Statistics in the Census Office during the fiscal year nineteen hundred and thirteen to the same extent the same have heretofore been available for expenditure on account of the Bureau of Statistics.

On page 134:

No circuit judge shall hereafter be appointed until the whole number of circuit judges shall be reduced to twenty-nine, and thereafter there shall not be more than twenty-nine circuit judges.

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On page 138:

Sec. 4. That during the fiscal year nineteen hundred and thirteen no vacancy occurring in the classified service of any executive department or other Government establishment within the District of Columbia shall be filled except by promotion or demotion from among persons employed within the District of Columbia in such department or establishment: Provided, That if in the judgment of the President the exigencies of the service require, and he shall so order, transfers may be made during the fiscal year nineteen hundred and thirteen from among persons employed within the District of Columbia in one executive department or other Government establishment to fill vacancies that may occur in the classified service of another executive department or other Government establishment.

Sec. 5. That on and after July first, nineteen hundred and thirteen, all appointments to positions in the classified service of the exceutive departments within the District of Columbia provided for at annual rates of compensation shall be made, after the probationary period of six months shall have expired, for terms of five years each; at the expiration of each such appointment the employment of each person so appointed shall cease and determine; and the employment of all persons in the classified service of the executive departments within the District of Columbia, at annual rates of compensation, who were appointed prior to July first, nineteen hundred and twelve, shall cease and determine, unless previously separated from the service, on the thirtieth day of June, nineteen hundred and fourteen: Provided, That all persons separated hereunder from the classified service shall, if not more than sixty-five years of age, be eligible for, and may, in the discretion of the head of the executive department, be reappointed without examination for additional periods of five years if at the time of such reappointment they shall be up to a fair standard of efficiency and capable of rendering a full measure of service in return for the salary of the place to which they may be appointed: Provided further, That nothing herein shall be construed to prevent the head of any department from removing at any time, for good and sufficient cause, any employee of his department: And provided further, That no person separated from the classified service under this provision shall directly or indirectly solicit indorsement for reappointment through any member of the legislative department, and any person violating this provision shall be denied reappointment: And provided further, That no head of an executive department shall receive or consider from any member of the legislative department any request for the reappointment of any person seeking employment in the classified service, and it shall be considered a violation of law for any member of the legislative department to submit to any executive officer a request for the reappointment of any person in said classified service.

Sec. 6. That any person violating section four of the legislative, executive, and judicial appropriation act approved August fifth, eighteen hundred and eighty-two (Statutes at Large, volume twenty-two, page two hundred and fifty-five), shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not less than one hundred dollars or by imprisonment for not less than one month.

Sec. 7. That in addition to the apportionment required by the so-called antideficiency act, approved February twenty-seventh, nineteen hundred and six (Statutes at Large, volume thirty-four, page forty-nine), the head

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of each executive department shall, on or before the beginning of each fiscal year, apportion to each office or bureau of his department the maximum amount to be expended therefor during the fiscal year out of the contingent fund or funds appropriated for the entire year for the department, and the amounts so apportioned shall not be increased or diminished during the year for which made except upon the written direction of the head of the department, in which there shall be fully expressed his reasons therefor; and hereafter there shall not be purchased out of any other fund any article for use in any office or bureau of any executive department in Washington, District of Columbia, which could be purchased out of the appropriations made for the regular contingent funds of such department or of its offices or bureaus.

Sec. 8. That no money appropriated by this or any other act shall be expended for telephone service installed in any private residence or private apartment or for tolls or other charges for telephone service from private residences or private apartments.

Sec. 9. That no money appropriated by this or any other act shall be used after the first day of October, nineteen hundred and twelve, for services in any executive department or other Government establishment at Washington, District of Columbia, in the work of addressing, wrapping, mailing, or otherwise dispatching any publication issued by an executive department or other Government establishment at Washington, District of Columbia, or for the purchase of material or supplies to be used in such work; and on and after October first, nineteen hundred and twelve, it shall be the duty of the Public Printer to perform such work at the Government Printing Office. Prior to October first, nineteen hundred and twelve, each executive department and other Government establishment at Washington, District of Columbia, shall transfer to the Public Printer such machines, equipment, and material as are used in addressing, wrapping, mailing, or otherwise dispatching publications; and each head of such executive department and other Government establishment at Washington, District of Columbia, shall furnish from time to time to the Public Printer mailing lists, in convenient form, and changes therein, for use in the distribution of publications issued by such department or establishment; and the Public Printer shall furnish copies of any publication only in accordance with the provisions of law or the instruction of the head of the department or establishment issuing the publication. The employment of all persons in the several executive departments and other Government establishments at Washington, District of Columbia, wholly in connection with the duties herein transferred to the Public Printer, or whose services can be dispensed with or devolved upon another because of such transfer, shall cease and determine on or before the first day of October, nineteen hundred and twelve, and their salaries or compensation shall lapse for the remainder of the fiscal year nineteen hundred and thirteen and be covered into the Treasury. A detailed statement of all machines, equipment, and material transferred to the Government Printing Office by operation of this provision and of all employments discontinued shall be submitted to Congress at its next session by the head of each executive department and other Government establishments at Washington, District of Columbia, in the annual estimates of appropriations.

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On page 143:

Sec. 10. That the Commerce Court is abolished on and after July first, nineteen hundred and twelve, and all laws in so far as they provide for the establishment of said Commerce Court are repealed. The jurisdiction now vested in the Commerce Court is hereby transferred to and vested in the district courts of the United States. All cases pending in the Commerce Court at the date of the passage of this act shall be transferred forthwith to said district courts. Each of said cases shall be transferred to the district court wherein it might have been filed at the time it was filed in the Commerce Court if this act had then been in effect, and if it might have been filed in any one of two or more district courts it shall be transferred to that one of said district courts which may be designated by the petitioner or petitioners in said case, or, upon failure of said petitioners to act in the premises within ten days after the passage of this act, to such one of said district courts as may be designated by the judges of the Commerce Court. The judges of the Commerce Court shall have authority and are hereby directed to make any and all orders and to take any other action necessary to transfer as aforesaid the cases then pending in the Commerce Court to said district courts.

RECAPITULATION.

The following tabulated statement gives in detail the appropriations for the current fiscal year, the estimates for 1913, and the amounts recommended in the accompanying bill for the fiscal year 1913:

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LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL, 1913.

Comparative statement showing the appropriations for 1912, the estimates for 1913, and amounts recommended for 1913.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Senate.						
Salaries of Senators	$690,000.00	92	$690,000.00	92	$690,000.00	92
Mileage	47,000.00	.....	47,000.00	.....	47,000.00	.....
Salaries, Vice President's Office	7,540.00	4	8,540.00	5	7,540.00	4
Salary, Chaplain	1,200.00	1	1,200.00	1	1,200.00	1
Salaries, Secretary's Office	92,460.00	41	90,080.00	41	88,960.00	41
Salaries, document room	12,520.00	7	12,520.00	7	12,520.00	7
Salaries, annual clerks, and messengers to committees	319,280.00	172	358,580.00	202	318,640.00	172
Salaries, office Sergeant-at-Arms and Doorkeeper	152,484.00	130	149,364.00	131	148,884.00	130
Senate Office Building, care of	14,700.00	14	14,700.00	14	14,700.00	14
Senate Office Building, police force	19,050.00	18	19,050.00	18	8,550.00	8
Salaries, post office	19,188.00	15	17,300.00	14	17.300.00	14
Salaries, folding room	27,520.00	28	25,360.00	27	25,360.00	27

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Senate—Continued.						
Salaries, Office Superintendent of Capitol	$28,120.00	23	$28,120.00	23	$28,120.00	23
Senate Office Building	16,800.00	14	16,800.00	14	16,800.00	14
Salaries, annual clerks to Senators who are not chairmen of committees (including for 1912, $10,000 in deficiency act)	80,000.00	40	70,000.00	35	70,000.00	35
Stenographers to Senators (including, for 1912, $12,000 in deficiency act)	42,000.00	35	30,000.00	25	30,000.00	25
Stationery	16,625.00	.....	17,625.00	.....	16,625.00	.....
Postage	350.00	.....	350.00	.....	350.00	.....
Horses and mail wagons	6,000.00	.....	6,000.00	.....	6,000.00	.....
Material for folding	2,000.00	.....	2,000.00	.....	2,000.00	.....
Folding speeches and pamphlets	2,000.00	.....	6,000.00	.....	2,000.00	.....
Fuel, oil, etc., heating apparatus	45,000.00	.....	5,000.00	.....	.....	.....
Furniture	8,500.00	.....	8,500.00	.....	5,000.00	.....
Materials for furniture	3,000.00	.....	3,000.00	.....	2,000.00	.....

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Cleaning furniture	2,000.00	.....	2,000.00	.....	2,000.00	.....
Packing boxes	970.00	.....	970.00	.....	970.00	.....
Miscellaneous items	50,000.00	.....	50,000.00	.....	50,000.00	.....
Miscellaneous items, Maltby Building	18,480.00	.....	17,280.00	.....	.....	.....
Rent of warehouse, storage	3,600.00	.....	3,600.00	.....	.....	.....
Expenses of inquiries and investigations	25,000.00	.....	50,000.00	.....	25,000.00	.....
Reporting debates	30,000.00	.....	30,000.00	.....	30,000.00	.....
Total, Senate	1,783,387.00	634	1,780,939.00	649	1,667,519.00	607
Capitol police.						
Salaries	78,150.00	73	78,150.00	73	41,250.00	38
Contingent expenses	300.00	.....	300.00	.....	200.00	.....
Total, Capitol police	78,450.00	73	78,450.00	73	41,450.00	38
Congressional Directory	1,600.00	.....	1,600.00	.....	1,600.00	.....
House of Representatives.						
Salaries of Members and Delegates	2,989,500.00	398	3,094,500.00	440	3,099,500.00	440
Mileage	154,000.00	.....	154,000.00	.....	154,000.00	.....
Salaries, Speaker's office	11,640.00	4	11,640.00	4	12,840.00	5
Salary, Chaplain	1,200.00	1	1,200.00	1	1,200.00	1
Salaries, Clerk's office	129,865.00	73	91,970.00	49	91,970.00	49
Salaries, Superintendent of Capitol	40,300.00	34	40,300.00	34	40,300.00	34

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
House of Representatives—Continued.						
Salaries, annual clerks, messengers, and janitors to committees	$162,950.00	103	$162,950.00	103	$162,230.00	102
Salaries, session clerks to committees	11,340.00	9	6,480.00	9	4,320.00	6
Salaries, Sergeant at Arms' office	25,840.00	11	22,840.00	9	22,840.00	9
Police force, House Office Building	19,750.00	18	11,700.00	11	11,700.00	11
Salaries, Doorkeeper's office	192,710.00	198	152,350.00	171	150,900.00	170
Salaries of special employees (including $2,400 for 1912 in deficiency act)	23,339.10	15	23,335.25	15	20,935.25	13
Salaries, post office	32,620.00	30	28,420.00	30	28,420.00	30
Hire of horses and mail wagon	2,500.00	.....	2,500.00	.....	2,500.00	.....
Salaries, official reporters	32,500.00	7	32,500.00	7	32,500.00	7
Janitor	800.00	1	.....	.....	240.00	1
Salaries, committee stenographers	22,000.00	5	20,000.00	4	20,000.00	4
Janitor	720.00	1	.....	.....	.....	.....
Clerk hire, Members and Delegates	598,500.00	.....	618,975.00	.....	618,975.00	.....

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Materials for folding	10,000.00	.....	10,000.00	.....	10,000.00	.....
Fuel, etc., heating apparatus	38,000.00	.....	38,000.00	.....	.....	.....
Furniture	20,000.00	.....	20,000.00	.....	10,000.00	.....
Packing boxes	3,500.00	.....	3,500.00	.....	3,500.00	.....
Miscellaneous items	75,000.00	.....	75,000.00	.....	75,000.00	.....
Stationery	54,750.00	.....	54,750.00	.....	54,750.00	.....
Postage	1,150.00	.....	1,150.00	.....	1,150.00	.....
Total, House of Representatives	4,654,474.10	908	4,678,060.25	887	4,629,770.25	882
Library of Congress.						
Salaries	246,420.00	246	257,200.00	254	247,620.00	247
Salaries, execution of copyright law	95,180.00	86	102,380.00	92	95,180.00	86
Distribution of card indexes	21,800.00	.....	24,500.00	.....	24,500.00	.....
Temporary services	2,000.00	.....	2,000.00	.....	2,000.00	.....
Carrier service in connection with House Office Building	960.00	.....	960.00	.....	960.00	.....
Division for the blind	.....	.....	7,500.00	.....	.....	.....
Sunday opening	10,000.00	.....	10,000.00	.....	10,000.00	.....
Increase of the Library	100,000.00	.....	120,000.00	.....	100,000.00	.....
Contingent expenses	6,800.00	.....	6,800.00	.....	6,800.00	.....
Salaries, care and maintenance of building	71,705.00	121	80,205.00	129	71,705.00	121
Sunday opening, extra services for	2,800.00	.....	3,000.00	.....	2,800.00	.....

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Library of Congress—Continued.						
Fuel, light, repairs, and supplies	$18,000.00	.....	$18,000.00	.....	$14,000.00	.....
Furniture	20,000.00	.....	15,000.00	.....	5,000.00	.....
Total, Library of Congress	595,665.00	453	647,545.00	475	580,565.00	454
Botanic Garden.						
Superintendent	1,800.00	1	1,800.00	1	1,800.00	1
Wages and miscellaneous expenses	21,093.75	.....	21,093.75	.....	21,093.75	.....
Total, Botanic Garden	22,893.75	1	22,893.75	1	22,893.75	1
Executive.						
Salary, President	75,000.00	1	75,000.00	1	75,000.00	1
Salary, Vice President	12,000.00	1	12,000.00	1	12,000.00	1
Salaries, Executive Office	71,820.00	36	72,540.00	37	71,336.66	36
Contingent expenses	25,000.00	.....	25,000.00	.....	25,000.00	.....
Total, Executive	183,820.00	38	184,540.00	39	183,336.66	38

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Civil Service Commission.						
Salaries	204,510.00	154	246,550.00	194	227,230.00	175
Field force	42,560.00	34	44,080.00	33	42,560.00	34
Rural-carrier examining board	22,720.00	21				
Salaries, expert examiners	3,000.00		3,000.00		2,000.00	
Salaries, field examiners			12,000.00	8		
Purchase and maintenance of motor delivery wagon			2,000.00			
Electric conduit and connections			4,000.00		4,000.00	
Traveling expenses	12,000.00		17,000.00		12,000.00	
Total, Civil Service Commission	284,790.00	209	328,630.00	235	287,790.00	209
Department of State.						
Salaries, Secretary's Office	263,800.00	189	272,420.00	193	266,200.00	192
Foreign trade and treaty relations, salaries	100,000.00	25	94,500.00	25	69,160.00	25
Foreign tariffs, collating					10,000.00	
Contingent and miscellaneous expenses	25,500.00		24,780.00		19,000.00	
Purchase of automobile mail wagon			1,000.00		1,000.00	
Rent	3,000.00		11,720.00		9,220.00	
Total, Department of State	392,300.00	214	404,420.00	218	374,580.00	217

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Treasury Department.						
Salaries, Secretary's Office	$617,520.00	587	$628,680.00	584	$619,120.00	584
Stationery	50,000.00	.....	50,000.00	.....	50,000.00	.....
Postage	1,200.00	.....	1,000.00	.....	1,000.00	.....
Binding materials (in deficiency act for 1912)	250.00	.....	250.00	.....	250.00	.....
Newspapers and books	1,000.00	.....	1,500.00	.....	750.00	.....
Investigation of accounts and records	75,000.00	.....	50,000.00	.....	15,000.00	.....
Freight, expressage, etc	7,000.00	.....	7,000.00	.....	7,000.00	.....
Rent of buildings	52,486.00	.....	48,850.00	.....	48,850.00	.....
Other contingent expenses	73,000.00	.....	71,500.00	.....	69,500.00	
Fire-alarm system	2,166.00	.....	2,166.00	.....	2,166.00	.....
Electric burglar-alarm device (in sundry civil act for 1912)	720.00	.....	720.00	.....	720.00	.....
New fire hose and fixtures	.....	.....	1,000.00	.....	.....	.....
Auditor for Post Office Department, contingent expenses	12,000.00	.....	6,000.00	.....	6,000.00	.....
Tabulating equipment	.....	.....	81,700.00	.....	81,700.00	.....

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Salaries, Supervising Architect's Office	97,590.00	53	232,720.00	151	83,850.00	46
Authority is recommended for employment during 1913 of 103 additional persons in Architect's Office, payable out of "general expenses, public buildings," in sundry civil act instead of direct appropriation therefor as estimated						
Salaries, Comptroller's Office	76,120.00	40	75,410.00	38	73,460.00	38
Salaries, Office of Auditor for Treasury Department	152,650.00	112	141,790.00	102	141,790.00	102
Salaries, Office of Auditor for War Department	336,750.00	246	312,420.00	225	309,570.00	224
Salaries, Office of Auditor for Navy Department	137,590.00	101	136,690.00	100	136,690.00	100
Salaries, Office of Auditor for Interior Department	156,850.00	113	154,250.00	111	143,250.00	101
Salaries, Office of Auditor for State and Other Departments	118,510.00	82	116,950.00	80	116,950.00	80
Salaries, Office of Auditor for Post Office Department	729,490.00	671	629,620.00	593	629,370.00	593
Salaries, Treasurer's Office	359,440.00	312	345,590.00	303	345,390.00	303
Salaries, reimbursable	221,420.00	216	221,020.00	215	220,720.00	215
Repairs to canceling and cutting machines	200.00		200.00		200.00	
Salaries, Register's Office	70,700.00	57	50,580.00	42	50,580.00	42
Salaries, Office of Comptroller of Currency	142,780.00	107	142,780.00	107	142,780.00	107
Salaries, reimbursable	38,780.00	36	43,460.00	43	38,780.00	36
Expenses, special examinations, and macerating machines	4,800.00		4,800.00		4,800.00	
Salaries, Office Commissioner of Internal Revenue	332,700.00	260	364,740.00	275	332,700.00	260
Withdrawal of denatured alcohol	18,240.00	12			18,240.00	12
Salaries, reimbursable	3,400.00	3	3,400.00	3	3,400.00	3

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Treasury Department—Continued.						
Salaries, Life-Saving Service	$48,120.00	32	$48,960.00	33	$48,120.00	32
Salaries, Bureau of Engraving and Printing	215,160.00	301	218,160.00	301	216,380.00	301
Salaries, Secret Service Division	16,120.00	9	16,120.00	9	15,720.00	9
Salaries, Office of Director of Mint	29,280.00	16	27,680.00	15	25,580.00	14
Freight on bullion and coin	50,000.00	.....	35,000.00	.....	5,000.00	.....
Contingent expenses	5,300.00	.....	5,500.00	.....	4,700.00	.....
Salaries, Office of Surgeon General of Public Health and Marine-Hospital Service	40,980.00	30	41,700.00	31	40,980.00	30
Total, Treasury Department	4,295,312.00	3,396	4,319,906.00	3,361	4,051,056.00	3,232
Internal Revenue.						
Salaries and expenses of collectors, surveyors, deputies, etc	2,150,000.00	.....	2,250,000.00	.....	2,075,000.00	.....
Salaries and expenses of agents	2,520,000.00	.....	2,595,000.00	.....	2,565,000.00	.....
Miscellaneous expenses	100,000.00	.....	100,000.00	.....	75,000.00	.....
Expenses of collecting corporation tax	100,000.00	.....	175,000.00	.....	150,000.00	.....

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Classifying, indexing, and exhibiting returns of corporations	25,000.00	.....	30,000.00	.....	30,000.00	.....
Total, Internal Revenue	4,895,000.00	.....	5,150,000.00	.....	4,895,000.00	.....
Independent Treasury.						
Salaries at Baltimore	34,000.00	24	34,950.00	24	34,000.00	24
Salaries at Boston	46,010.00	31	46,590.00	32	45,950.00	32
Salaries at Chicago (including for 1912 $2,400 in deficiency act)	75,170.00	52	77,230.00	52	75,170.00	52
Salaries at Cincinnati	24,410.00	17	30,390.00	19	27,010.00	19
Salaries at New Orleans	28,890.00	20	30,090.00	20	28,590.00	20
Salaries at New York	206,510.00	130	189,910.00	122	185,260.00	121
Salaries at Philadelphia	49,440.00	36	49,210.00	35	48,470.00	35
Salaries at St. Louis	40,540.00	30	41,610.00	31	41,060.00	31
Salaries at San Francisco	30,420.00	18	29,720.00	18	29,720.00	18
Paper for checks and drafts (in deficiency act for 1912)	10,000.00	.....	10,000.00	.....	9,000.00	.....
Total, Independent Treasury	545,390.00	358	539,700.00	353	524,230.00	352
Mints and Assay Offices.						
Salaries, Carson, Nev	6,350.00	4	6,350.00	4	.....	.....
Wages of workmen	6,200.00	.....	4,340.00	.....	.....	.....
Contingent expenses	3,000.00	.....	3,000.00	.....	.....	.....

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Mints and Assay Offices—Continued.						
Salaries, Denver, Colo	$48,100.00	23	$46,100.00	22	$47,700.00	23
Wages of workmen	94,000.00	.....	94,000.00	.....	112,000.00	.....
Contingent expenses	30,000.00	.....	35,000.00	.....	37,500.00	.....
Salaries, New Orleans, La	10,300.00	7	8,200.00	5	.....	.....
Wages of workmen	7,500.00	.....	7,100.00	.....	.....	.....
Contingent expenses	3,500.00	.....	3,000.00	.....	.....	.....
Salaries, Philadelphia, Pa	80,300.00	45	74,800.00	41	74,300.00	41
Wages of workmen	295,000.00	.....	305,000.00	.....	305,000.00	.....
Contingent expenses	70,000.00	.....	70,000.00	.....	70,000.00	.....
Salaries, San Francisco, Cal	54,300.00	27	51,300.00	25	46,700.00	23
Wages of workmen	155,000.00	.....	122,500.00	.....	80,000.00	.....
Contingent expenses	40,000.00	.....	40,000.00	.....	35,000.00	.....
Salaries, Boise, Idaho	8,050.00	5	8,050.00	5	.....	.....

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Wages of workmen	3,540.00		3,440.00			
Contingent expenses	2,500.00		2,220.00			
Salaries, Charlotte, N. C	1,500.00	1				
Wages of workmen	900.00					
Contingent expenses	500.00					
Salaries, Deadwood, S. Dak. (including for 1912, $250 in deficiency act)	6,450.00	4	6,650.00	4		
Wages of workmen	2,300.00		4,100.00			
Contingent expenses	1,500.00		1,500.00			
Salaries, Helena, Mont	10,400.00	6	8,800.00	5		
Wages of workmen	6,500.00		4,000.00			
Contingent expenses	3,250.00		3,000.00			
Salaries, New York, N. Y	46,500.00	23	51,300.00	27	51,100.00	27
Wages of workmen	30,000.00		80,500.00		80,000.00	
Contingent expenses	10,000.00		65,000.00		60,000.00	
Salaries, Seattle, Wash	13,050.00	7	9,850.00	5		
Wages of workmen	22,000.00		17,600.00			
Contingent expenses	6,500.00		6,000.00			
Salaries, Salt Lake, Utah	7,100.00	4	7,100.00	4		
Wages of workmen	4,500.00		3,200.00			
Contingent expenses	3,500.00		3,500.00			

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Mints and Assay Offices—Continued.						
Amount expended in 1911 from "Parting and refining bullion," repealed after fiscal year 1912	$225,665.00					
Total, Mints and Assay Offices	1,319,755.00	156	$1,156,500.00	147	$997,700.00	114
Government in the Territories.						
Salaries in Alaska	87,000.00	17	87,000.00	17	87,000.00	17
Contingent expenses	7,150.00	1	8,950.00	1	7,150.00	1
Sitka National Monument			1,000.00			
Salaries in Arizona	21,500.00	8	21,500.00	8		
Contingent expenses	1,500.00		1,500.00			
Legislative expenses	2,000.00		24,250.00			
Salaries in New Mexico	27,500.00	10	27,500.00	10		
Contingent expenses	1,500.00		1,500.00			
Legislative expenses	3,000.00		25,000.00			

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Salaries in Hawaii	28,000.00	5	28,000.00	5	28,000.00	5
Judges of circuit courts (indefinite)	.....	.....	.....	.....	.....	.....
Contingent expenses	3,500.00	1	3,500.00	1	3,600.00	1
Legislative expenses	.....	.....	30,000.00	.....	30,000.00	.....
Total, Government in the Territories	182,650.00	42	259,700.00	42	155,150.00	24
War Department.						
Salaries, Secretary's Office	147,970.00	118	149,800.00	118	147,970.00	118
Contingent expenses	75,500.00	.....	75,500.00	.....	73,500.00	.....
Rent	15,220.00	.....	15,220.00	.....	12,720.00	.....
Salaries, Adjutant General's Office	781,950.00	638	781,950.00	638	781,950.00	638
Salaries, Inspector General's Office	12,560.00	10	12,560.00	10	12,560.00	10
Salaries, Judge Advocate's Office	20,800.00	16	24,600.00	18	20,800.00	16
Salaries, Signal Office	25,800.00	22	25,800.00	22	25,800.00	22
Salaries, Quartermaster General's Office	278,410.00	222	278,410.00	222	275,110.00	219
Salaries, Office of the Commissary General	78,840.00	63	77,940.00	62	77,940.00	62
Salaries, Office of the Surgeon General	166,288.00	135	169,428.00	137	166,108.00	135
Salaries, Paymaster General's Office	71,900.00	58	72,400.00	58	71,900.00	58
Salaries, Chief of Ordnance	91,760.00	73	91,760.00	73	91,760.00	73
Salaries, Office of Chief of Engineers	100,220.00	80	107,820.00	86	100,220.00	80

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
War Department—Continued.						
Salaries, Bureau of Insular Affairs	$91,000.00	73	$91,360.00	73	$91,000.00	73
Salaries, Division of Militia Affairs (payable from permanent appropriation for militia)	.....	.....	.....	.....	.....	.....
Total, War Department	1,958,218.00	1,508	1,974,548.00	1,517	1,949,338.00	1,504
Public Buildings and Grounds.						
Salaries	16,140.00	9	16,740.00	9	16,140.00	9
Foremen and laborers	31,200.00	.....	31,200.00	.....	31,200.00	.....
Watchmen	30,950.00	43	30,950.00	43	30,950.00	43
Contingent expenses	4,500.00	.....	4,700.00	.....	3,900.00	.....
Total, Public Buildings and Grounds	82,790.00	52	83,590.00	52	82,190.00	52
State, War, and Navy Building.						
Salaries	112,440.00	201	132,060.00	247	105,960.00	192
Fuel, lights, and contingent expenses	32,000.00	.....	34,000.00	.....	32,000.00	.....

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Salaries, Mills Building	14,220.00	26	22,740.00	52	14,220.00	26
Miscellaneous	2,000.00	.....	2,000.00	.....	2,000.00	.....
Purchase of electric generator	.....	.....	14,000.00	.....	14,000.00	.....
Salaries, State Department Annex	660.00	1	660.00	1	660.00	1
Total, State, War, and Navy Building	161,320.00	228	205,460.00	300	168,840.00	219
Navy Department.						
Salaries, Secretary's Office	73,460.00	50	78,220.00	53	73,460.00	50
Contingent expenses	44,500.00	.....	53,000.00	.....	44,500.00	.....
Rent	24,500.00	.....	24,500.00	.....	24,500.00	.....
Salaries, Office of Solicitor	16,990.00	9	16,990.00	9	16,990.00	9
Salaries, library of the Navy Department	3,980.00	4	3,980.00	4	3,980.00	4
Salaries, Office Naval Records of Rebellion	17,640.00	14	17,640.00	14	17,640.00	14
Publication of naval records	21,000.00	.....	21,000.00	.....	21,000.00	.....
Salaries, Office of Judge Advocate	12,320.00	10	12,320.00	10	12,320.00	10
Salaries, Bureau of Navigation	79,440.00	73	82,260.00	73	77,760.00	71
Salaries, Office of Naval Intelligence	12,100.00	10	13,160.00	11	12,100.00	10
Salaries, Bureau of Equipment	32,900.00	26	33,300.00	26	32,800.00	26

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Navy Department—Continued.						
Salaries, Hydrographic Office	$102,500.00	88	$106,420.00	91	$102,500.00	88
For production of charts from metallic plates by photolithographic process—						
Salaries			20,560.00	18	20,560.00	18
Equipment and supplies			19,000.00		19,000.00	
Press and attachments			6,500.00		6,500.00	
Drafting equipment			820.00		820.00	
Photographic equipment			3,120.00		3,120.00	
Miscellaneous expenses	7,000.00		7,000.00		7,000.00	
Lithographic printing press	4,000.00					
Folding machine	700.00					
Contingent expenses and salaries of branch offices	28,960.00		34,360.00		28,960.00	
Monthly Pilot Chart, North Pacific	2,000.00		2,000.00		2,000.00	

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Salaries, Naval Observatory	43,240.00	40	44,280.00	40	43,240.00	40
Contingent and miscellaneous expenses	21,250.00	.....	18,750.00	.....	18,750.00	.....
Salaries, Nautical Almanac Office	15,640.00	13	16,240.00	13	15,640.00	13
Pay of computers on piecework	7,000.00	.....	7,000.00	.....	7,000.00	.....
Salaries, Bureau of Steam Engineering	26,380.00	24	26,880.00	24	26,380.00	24
Salaries, Bureau of Construction and Repair	57,800.00	56	60,840.00	56	57,800.00	56
Salaries, Bureau of Ordnance	32,960.00	29	41,740.00	35	32,960.00	29
Salaries, Bureau of Supplies and Accounts	110,040.00	99	130,460.00	111	110,040.00	99
Salaries, Bureau of Medicine and Surgery	18,300.00	16	19,260.00	16	18,300.00	16
Salaries, Bureau of Yards and Docks	20,140.00	19	20,640.00	19	20,140.00	19
Naval Militia Office, salaries (payable from annual appropriation, Arming and equipping Naval Militia)	.....	.....	.....	.....	.....	.....
Total Navy Department	836,740.00	580	942,240.00	623	877,760.00	596
Interior Department.						
Salaries, Secretary's Office	274,130.00	227	310,280.00	249	266,930.00	217
Additional employees, custody of old Post-Office Building	39,380.00	56	37,780.00	55	35,780.00	51
Salaries, Assistant Attorney General's Office	65,850.00	31	62,550.00	29	65,850.00	31
Expenses, special inspectors	4,000.00	.....	4,500.00	.....	4,000.00	.....
Expenses of inspectors	9,600.00	.....	13,500.00	.....	9,600.00	.....
Contingent expenses	122,000.00	.....	130,000.00	.....	122,000.00	.....
Stationery	69.500.00	.....	70,100.00	.....	69,500.00	.....

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Interior Department—Continued.						
Scientific books	$1,000.00	.....	$3,250.00	.....	$1,000.00	.....
Rent of buildings (including, for 1912, $375 in deficiency act for Civil Service Commission)	61,775.00	.....	68,275.00	.....	61,775.00	.....
Postage to Postal Union countries	3,500.00	.....	3,500.00	.....	3,500.00	.....
Salaries, General Land Office	621,870.00	487	639,700.00	504	621,520.00	487
Expenses of inspectors	8,500.00	.....	8,500.00	.....	8,500.00	.....
Law books for the library	400.00	.....	400.00	.....	400.00	.....
Maps of the United States	20,000.00	.....	20,000.00	.....	20,000.00	.....
Separate State and Territorial maps	2,000.00	.....	2,000.00	.....	2,000.00	.....
Filing system	3,000.00	.....	3,000.00	.....	3,000.00	.....
Salaries, Indian Office (including, for 1912, $500 in deficiency act)	232,210.00	179	302,780.00	221	231,710.00	179
Salaries, Pension Office	1,483,620.00	1,127	1,483,620.00	1,127	1,469,700.00	1,114
Expenses, special examiners	215,000.00	.....	215,000.00	.....	215,000.00	.....
Card-index system	10,000.00	.....	5,000.00	.....	5,000.00	.....

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Salaries, special examiners	58,500.00	45	58,500.00	45	58,500.00	45
Salaries, Patent Office	1,311,010.00	939	1,355,460.00	951	1,311,010.00	939
Scientific library	2,500.00	.....	2,500.00	.....	2,500.00	.....
Law books for library	500.00	.....	500.00	.....	500.00	.....
Producing weekly issue of patents	140,000,00	.....	140,000.00	.....	140,000.00	.....
Investigating public use of inventions	500.00	.....	500.00	.....	500.00	.....
International Bureau at Berne	750.00	.....	750.00	.....	750.00	.....
Salaries, Bureau of Education	72,800.00	51	186,320.00	57	72,800.00	51
General expenses	.....	.....	26,900.00	.....	.....	.....
Books for library	500.00	.....	500.00	.....	500.00	.....
Collecting statistics	4,000.00	.....	4,000.00	.....	4,000.00	.....
Distributing documents	2,500.00	.....	2,500.00	.....	2,500.00	.....
Office, Superintendent of Capitol	30,480.00	22	30,480.00	22	30,480.00	22
Total, Department of Interior	4,871,375.00	3,164	5,192,645.00	3,260	4,840,805.00	3,136
Surveyors General.						
Salaries	38,000.00	13	39,000.00	13	36,000.00	12
Clerk hire	161,900.00	.....	187,600.00	.....	161,900.00	.....
Contingent expenses	21,000.00	.....	20,700.00	.....	19,700.00	.....
Total, Surveyors General	220,900.00	13	247,300.00	13	217,600.00	12

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Post Office Department.						
Salaries, Postmaster General's Office	$177,190.00	220	$177,190.00	220	$172,150.00	213
Division of Post Office Inspectors	90,520.00	74	90,520.00	74	90,520.00	74
Division of Purchasing Agent	16,420.00	10	16,420.00	10	16,420.00	10
Division of Assistant Attorney General	19,770.00	13	19,770.00	13	19,770.00	13
Salaries, First Assistant Postmaster General's Office	82,650.00	59	83,150.00	59	82,650.00	59
Division of Appointments	63,480.00	44	63,480.00	44	63,480.00	44
Division of City Delivery	28,300.00	22	28,300.00	22	28,300.00	22
Salaries, Second Assistant Postmaster General's Office	224,470.00	158	152,330.00	105	151,830.00	105
Division of Railway Mail Service	40,300.00	26	40,300.00	26	40,300.00	26
Salaries, Third Assistant Postmaster General's Office	229,270.00	181	229,770.00	181	229,270.00	181
Division of Money Orders	73,310.00	59	73,310.00	59	73,310.00	59
Salaries, Fourth Assistant Postmaster General's Office	130,740.00	109	203,880.00	162	203,380.00	162
Division of Dead Letters	170,030.00	161	170,030.00	161	170,030.00	161

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Division of Supplies	94,100.00	91	94,100.00	91	94,100.00	91
Division of Topography	46,790.00	36	46,790.00	36	46,790.00	36
Contingent expenses	100,350.00	.....	98,350.00	.....	88,850.00	.....
Rent	3,500.00	.....	3,500.00	.....	3,500.00	.....
Official Postal Guide	25,000.00	.....	25,000.00	.....	24,000.00	.....
Post-route maps	26,000.00	.....	26,000.00	.....	26,000.00	.....
Total, Post Office Department	1,642,190.00	1,263	1,642,190.00	1,263	1,624,650.00	1,256
Department of Justice.						
Salaries, Attorney General's Office	419,010.00	245	432,210.00	252	407,610.00	238
Contingent expenses	42,000.00	.....	49,500.00	.....	42,000.00	.....
Rent (including, for 1912, $5,500 in deficiency act)	32,200.00	.....	31,580.40	.....	31,580.40	.....
Salaries, Office of Solicitor of Treasury	28,980.00	15	28,980.00	15	28,980.00	15
Purchase of law books	450.00	.....	300.00	.....	300.00	.....
Salaries, Office of Solicitor of Department of Commerce and Labor	25,240.00	14	25,240.00	14	25,240.00	14
Purchase of books	300.00	.....	500.00	.....	300.00	.....
Total, Department of Justice	548,180.00	274	568,310.40	281	536,010.40	267
Department of Commerce and Labor.						
Salaries, Secretary's Office	173,900.00	161	184,290.00	168	170,300.00	158
Commercial agents	60,000.00	.....	60,000.00	.....	.....	.....
Contingent expenses	60,000.00	.....	60,000.00	.....	60,000.00	.....

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Department of Commerce and Labor—Continued.						
Rent	$50,000.00		$55,000.00		$50,000.00	
Salaries, Bureau of Corporations	79,200.00	64	79,200.00	64	79,200.00	64
Salaries and per diem of special agents	175,000.00		175,000.00		175,000.00	
Salaries, Bureau of Manufactures	36,600.00	27	43,700.00	33		
Foreign tariffs, collating and arrangement of	10,000.00		12,000.00			
Salaries, Bureau of Labor	103,000.00	72	104,500.00	72	102,160.00	71
Per diem expenses of special agents	64,090.00		64,090.00		64,090.00	
Books, periodicals, etc	1,000.00		1,000.00		1,000.00	
Medical examination, employees of United States	3,000.00		3,000.00		3,000.00	
Salaries, Lighthouse Bureau	64,630.00	42	65,630.00	42	64,630.00	42
Census Office (including $500,000 for 1912, in urgent deficiency act)	3,000,000.00					
Salaries (including for 1912 the number of salaries constituting the Census Office when specific salaries therefor were omitted for 1910)		626	752,440.00	644	696,340.00	611

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Temporary clerks			120,000.00		120,000.00	
Collecting statistics			429,000.00		342,000.00	
Rent			25,000.00		22,080.00	
Stationery			10,000.00		10,000.00	
Miscellaneous expenses			30,000.00		15,000.00	
Books for library			1,000.00		500.00	
Tabulating machinery			20,000.00		26,000.00	
Printing and binding			225,000.00		272,000.00	
Division of statistics					69,640.00	60
Salaries, Bureau of Statistics	73,650.00	57	84,680.00	64		
Books and periodicals			200.00			
Collecting statistics relative to commerce	4,000.00		4,200.00			
Salaries, Office of Steamboat-Inspection Service	14,640.00	9	15,040.00	9	14,640.00	9
Salaries of steamboat inspectors	347,100.00	93	347,100.00	93	347,100.00	93
Clerk hire, service at large	83,000.00		83,000.00		83,000.00	
Contingent expenses	90,000.00		100,000.00		90,000.00	
Salaries, Bureau of Navigation	33,280.00	24	33,680.00	24	33,280.00	24
Salaries, shipping commissioners	31,900.00	17	32,100.00	17	23,200.00	10
Clerk hire	33,000.00		37,000.00		35,000.00	
Contingent expenses	10,850.00	1	10,940.00	1	9,000.00	1

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Department of Commerce and Labor—Continued.						
Salaries, Bureau of Navigation—Continued.						
Instruments for measuring vessels and counting passengers	$1,000.00	.....	$1,000.00	.....	$500.00	.....
Enforcement of navigation laws	15,000.00	.....	15,000.00	.....	15,000.00	.....
Wireless communication	7,000.00	.....	10,000.00	.....	7,000.00	.....
Salaries, Bureau of Immigration and Naturalization	59,500.00	43	61,220.00	44	59,500.00	43
Salaries, Division of Naturalization	58,660.00	44	67,860.00	51	60,260.00	45
Salaries, Division of Information	19,340.00	12	19,340.00	12	19,340.00	12
Salaries, Bureau of Standards	236,340.00	192	269,080.00	221	236,340.00	192
Materials and apparatus	50,000.00	.....	50,000.00	.....	50,000.00	.....
Repairs and alterations of buildings	2,000.00	.....	2,000.00	.....	2,000.00	.....
Fuel, heat, light, power, and contingent	25,000.00	.....	25,000.00	.....	25,000.00	.....
Grading, etc	3,000.00	.....	3,000.00	.....	3,000.00	.....
Completing testing machine, Pittsburgh	25,000.00	.....	.....	.....	.....	.....

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Testing machine, maintenance and operation	30,000.00	.....	30,000.00	.....	30,000.00	.....
Investigation of damage due to electric currents	15,000.00	.....	10,000.00	.....	10,000.00	.....
Investigating fire-resisting properties of materials	.....	.....	20,000.00	.....	.....	.....
Laboratory building	50,000.00	.....	.....	.....	.....	.....
Water current meter testing tank	.....	.....	5,000.00	.....	5,000.00	.....
Testing structural materials	75,000.00	.....	100,000.00	.....	75,000.00	.....
Total, Department of Commerce and Labor	5,273,680.00	1,484	3,956,290.00	1,559	3,576,100.00	1,435
Judicial.						
Salaries, Supreme Court:						
Chief Justice and associate justices (including for 1912 $9,000 in sundry civil act)	122,000.00	9	131,000.00	9	131,000.00	9
Marshal	4,500.00	1	4,500.00	1	4,500.00	1
Stenographic clerks	18,000.00	9	18,000.00	9	18,000.00	9
Salaries, circuit courts:						
Salaries, circuit judges (including, for 1912, 5 for Court of Commerce)	238,000.00	34	238,000.00	34	238,000.00	34
Clerks	31,500.00	9	31,500.00	9	31,500.00	9
Messenger, eighth circuit	3,000.00	1	3,000.00	1	3,000.00	1
Salaries, district courts:						
Salaries of judges	546,000.00	91	546,000.00	91	558,000.00	93
Salaries, Territory of Hawaii	16,200.00	4	16,200.00	4	16,200.00	4

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Judicial—Continued.						
Salaries, United States judge (retired), indefinite	.....	.....	.....	.....	.....	.....
District of Columbia:						
Salaries, court of appeals—						
Salaries of chief justice and associate justices	$21,500.00	3	$21,500.00	3	$21,500.00	3
Clerk	3,500.00	1	3,750.00	1	3,500.00	1
Assistant clerk	2,250.00	1	2,500.00	1	2,250.00	1
Reporter	1,500.00	1	1,500.00	1	1,500.00	1
Crier	1,000.00	1	1,200.00	1	1,000.00	1
Messengers	2,160.00	3	2,160.00	3	2,160.00	3
Clerical assistance	1,000.00	.....	1,000.00	.....	1,000.00	.....
Stenographers to judges	3,600.00	3	4,800.00	3	3,600.00	3

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Salaries, supreme court—						
Chief justice and associate justices	36,000.00	6	36,000.00	6	36,000.00	6
Stenographers	5,400.00	6	5,400.00	6	5,400.00	6
Clerk, District Court, Northern District of Illinois	3,000.00	1	3,000.00	1		
Commissioner, Yellowstone Park	1,500.00	1	1,500.00	1	1,500.00	1
Books for libraries, circuit courts of appeals	9,500.00		9,500.00			
Books for judges and district attorneys	15,000.00		15,000.00		16,000.00	
Court of Customs Appeals:						
Salaries	54,840.00	15	54,840.00	15	54,840.00	15
Rent and contingent	23,000.00		18,740.00		15,330.00	
Court of Commerce:						
Salaries, rent, and contingent	94,500.00	4	74,500.00	4		
Total, Judicial	1,258,450.00	204	1,245,090.00	204	1,165,780.00	201
Court of Claims.						
Salaries	56,480.00	29	57,400.00	29	56,480.00	29
Employment of auditors	6,000.00	1	10,000.00	1	6,000.00	1
Stationery and contingent expenses	3,900.00		3,900.00		3,900.00	
Purchase of chemical engine			1,000.00			

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Legislative, executive, and judicial appropriation bill, 1913—Continued.

Object.	Appropriations for 1912.		Estimates for 1913.		Recommended for 1913.	
	Amounts.	Number of salaries.	Amounts.	Number of salaries.	Amounts.	Number of salaries.
Court of Claims—Continued.						
Reporting decisions	$1,000.00	.....	$1,000.00	.....	$1,000.00	.....
Custodian of building	500.00	1	500.00	1	500.00	1
Total, Court of Claims	67,880.00	31	73,800.00	31	67,880.00	31
Grand total	36,157,209.85	15,283	35,684,347.40	15,583	33,519,594.06	14,877

NOTE.—Total reduction in amount of estimates, 1913, under appropriations for 1912 ..... $472,862.45

Net increase in number of salaries estimated, 1913, over appropriations for 1912 300

Net decrease in amount of this bill under estimates for 1913 ..... 2,164,753.34

Net decrease in number of salaries in this bill under estimates for 1913 706

Net decrease in amount of this bill under appropriations for 1912 ..... 2,637,615.79

Net decrease in number of salaries in this bill under appropriations for 1912 406

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 633, Part 2.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

MAY 2, 1912.—Ordered to be printed.

Mr. GILLETT, from the Committee on Appropriations, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. R. 24023.]

The undersigned members of the Committee on Appropriations dissent from the report of the majority of the committee accompanying H. R. 24023.

It is not to be expected that an appropriation bill like this, containing thousands of items, will ever in every detail satisfy every member of the committee. We recognize that it is necessary to give and take and compromise, and while there are many different items which different ones of us would like to change, we should not submit a minority report were it not for three provisions which we think most unwise and injurious, and so important as to demand this protest.

We think a comparison of this bill and the Post Office appropriation bill, which has just been considered, presents an excellent exemplification of the old adage, "penny wise and pound foolish," and it is perhaps significant that the operation of the economies of this bill is confined to the District of Columbia, where there are no voters.

The three provisions referred to are the abolition of the Commerce Court, the abolition of the Bureau of Manufactures and commercial agents, and the fixing a term of five years for Government employees.

These are all matters of legislation and have no technical right in a general appropriation bill unless by virtue of the Holman rule, but as they are largely measures of administration we do not specially complain of them because they are here, but because they are bad legislation anywhere.

The Commerce Court has existed a little over a year, hardly long enough to thoroughly test its usefulness. It was established in order to effect greater promptness and uniformity in the decision of cases over which it was given jurisdiction and greater convenience for the parties interested. We believe it is accomplishing these results; that its record so far gives no proof that the purpose for which it was

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created will not be attained, and we think that its discontinuance would be a misfortune.

The Department of Commerce and Labor, through its Bureau of Manufactures, has aimed to collect and distribute information to the various industries of the country which it would be almost impossible for them otherwise to acquire and which is of great value. We are far behind other countries in this method of making our industrial life meet the exigencies of the day, and we believe the small amount of money appropriated for this purpose is well expended. It may be that some better cooperation between the different departments might be attained; but we believe the cutting off from the Department of Commerce and Labor this whole branch of activity is short-sighted parsimony and not true economy and would result in loss and not in saving to the country.

It is, of course, easy to effect an apparent economy by doing away with a court, or a bureau, or a department, or a whole branch of the service, or by wholesale reduction of force or salaries; but the question always remains, Does this saving compensate for the loss of the service? Is it real economy? That is to be determined by evidence and proof. We are aware of no such proof in the cases at issue here, and we think the people would be serious losers instead of gainers from the change.

We oppose a fixed tenure of five years for civil-service employees. Though here applied only to those in the District, if adopted here it would, of course, be extended to all throughout the country. We recognize the existing problems of superannuation, but we believe that to suddenly throw out every employee over 65 years of age is a crude and unreasonable method of meeting it, even if it has no political animus. It overthrows without any thorough investigation the existing system, jeopardizes the civil-service principle, and is a timid and unfeeling method of avoiding instead of solving the problem.

We think the arbitrary cut of 10 per cent throughout the War Department is unjustifiable. New methods adopted by the Chief of Staff may allow such a cut in some bureaus, but that does not make it possible in others unaffected by the reforms, and we have their testimony that it would cripple them.

Under this administration notable economies have been introduced, especially in the Treasury Department, and there is an apparent earnest attempt by the heads of departments to extend them, and we do not think it wise by such a drastic, arbitrary cut to discourage such efforts.

F. H. GILLETT.
E. L. TAYLOR, Jr.
J. G. CANNON.
GEO. R. MALBY.
JOHN W. DWIGHT.

I concur in the above views of the minority except that portion which refers to the Commerce Court. I favor abolishing the said court.

JAMES W. GOOD.

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62D CONGRESS, 2d Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 634.

MORTUARY AND MEMORIAL CHAPEL IN ARLINGTON CEMETERY.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. EVANS, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany H. R. 23668.]

The Committee on Military Affairs, to whom was referred House bill 23668, having considered the same, report thereon with a recommendation that as amended it do pass.

The need of a mortuary chapel at the National Cemetery at Arlington, where the funerals of those who are entitled to burial therein may be held, is a need which speaks for itself and requires no argument. That such a chapel should comport with the beauty of the scene and the dignity of a national building will probably be admitted by all. The question to which the committee has devoted most of the attention upon this subject is, How much money is necessary to build a building which will not only serve the uses for which it is desired and at the same time be worthy of the place and Nation, and at the same time might serve as a means of perpetuating the memory of the great servants of the Nation, whose remains are buried in Arlington, and be both a memorial as well as a mortuary chapel? The committee is of the opinion that if a chapel were built, in which the four walls would be pierced by many windows, as in the case, for illustration, of the Sainte-Chapelle in Paris, that these windows would be filled from time to time by donations in memory of the great dead of the Nation. After considerable correspondence and consultation with leading architects of the country, the committee is of the opinion that an appropriation of $75,000, exclusive of the cost of stain-glass windows, which will doubtless be furnished from time to time by private or public subscription, will be adequate.

Inasmuch as the value of this chapel as a national building will largely depend upon the good taste and thoroughly artistic quality of the windows, as well as of all the monuments, brasses, or other memo-

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rials that may be placed therein, the committee recommends an amendment, to consist of the following proviso, following the word "chapel," page 1, line 10:

Provided, however, That no window, monument, tablet, brass, or other memorial shall ever be placed in said chapel until the consent therefor has first been obtained from a majority of the members of the Committee of the House of Representatives on Military Affairs, and a majority of the members of the Committee of the Senate on Military Affairs, and of the President of the United States.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 635.

NEUTRALIZATION OF THE PHILIPPINES.

MAY 1, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. GARRETT, from the Committee on Insular Affairs, submitted the following

REPORT.

[To accompany H. J. Res. 278.]

The Committee on Insular Affairs, to whom was referred the joint resolution (H. J. Res. 278) to authorize the President of the United States to secure the neutralization of the Philippine Islands and the recognition of their independence by international agreement, beg leave to report that they have had the same under consideration and recommend that said joint resolution do pass.

The sole object and purpose of this joint resolution is to have the independence of the Philippine Islands recognized and their independence and neutrality guaranteed by international agreement whenever such independence shall have been granted by the United States.

From the time when our troops first landed in the Philippine Islands one of the reasons advanced for taking them in the first place and holding them since has been that if we leave those islands some other nation will seize them.

The argument is that the result of the War with Spain made us responsible for the Filipino people and that we have no right to abandon them when such action leaves them at the mercy of some other country.

This resolution is intended to meet this argument.

From the outset this country has been pledged to give the Filipinos their independence. The Democratic Party, in its three last national platforms, has committed itself to recognize Philippine independence and secure neutralization of the islands. Although the Republican Party has made no announcement of any kind as to its final policy with regard to the Philippines, yet the leaders of that party, including ex-President Roosevelt and President Taft, made utterances to the effect that the policy of the party was to prepare the Filipino people for independence, so there is no question but that this country

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is impliedly pledged to give the Filipinos their independence, the difference of opinion being only as to when and under what conditions they should be freed.

When this is done we wish to be sure that they will enjoy their independence, and, instead of establishing a protectorate, which would make this country individually responsible for the defense of the islands, a responsibility which will entail very considerable burden and the possibility of trouble with foreign powers, it seems wiser to accomplish the same result by treaty with the other powers, which would make the islands neutral territory and secure from foreign invasion.

This is not a new proposition but is a policy which has been adopted in reference to other small nations and which is in harmony with the views of modern statesmen. The independence of Switzerland was guaranteed in 1815, and the neutrality and independence of her territory was guaranteed by international agreement; that of Belgium in 1839, Luxemburg in 1867, and very lately Norway has been accorded similar protection.

Whatever tends to restrict the area of possible war helps the great movement toward international peace, and the resolution under discussion, therefore, is likely to be welcomed by the public opinion of the world, which is tending very strongly toward the attainment of international peace.

It certainly offers a far greater protection to the Philippine Islands than this Nation alone can give, especially since we were assured, recently by the Chief of the Bureau of Insular Affairs and theretofore by high military authorities of this country, that in case of war we should at once withdraw our forces from the Philippines.

It is believed that the great powers will meet any advances in this direction with great cordiality. To-day no one of them can acquire the islands except at the expense of war with the United States, and therefore they are not now open to occupation. No foreign nation gives up anything which it now has when it becomes a party to a treaty of neutralization. Nor is there any reason to believe that any nation wishes the islands. Each may be anxious that no rival shall acquire them, but if this danger is removed it is believed that each will be satisfied to leave them independent. England once owned them, but voluntarily gave them up; Spain owned them, but is more prosperous since she let them go than she was while she had them. We find them a source of constant worry and expense and shall rejoice when we are no longer responsible for them, and it may well be doubted whether any country will feel inclined to repeat our experience.

In dealing with other nations, therefore, we ask for nothing and instead offer each a valuable assurance against aggression by any other. The friendship of the United States is now desired by every other nation, and it is believed that the treaty of neutralization can be negotiated without serious difficulty. Such a treaty leaves this country to deal with the Philippine Islands as justice requires, assured that when we retire from the islands we can leave them secure in the enjoyment of that independence which we have always held to be the birthright of every people.

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The resolution reads as follows:

[House joint resolution 278, Sixty-second Congress, second session.]

JOINT RESOLUTION To authorize the President of the United States to secure the neutralization of the Philippine Islands and the recognition of their independence by international agreement.

Whereas it is the purpose of the United States to relinquish sovereignty over the Philippine Islands and the people thereof and to permit said people to establish for themselves an independent government, and it being eminently desirable that such independence shall be secured and safeguarded by a general treaty of neutrality: Therefore

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he hereby is, requested to open negotiations with such foreign Governments as in his judgment should be parties to the compact, including those of Great Britain, Germany, France, Russia, Japan, and Spain, whereby the neutralization of the Philippine Islands shall be guaranteed and their independence recognized through international agreement.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPT. 635, PART. 2.

NEUTRALIZATION OF THE PHILIPPINES.

MAY 1, 1912.—Ordered to be printed as part 2 of Report No. 635.

Mr. OLMSTED, from the Committee on Insular Affairs, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany H. J. Res. 278.]

House joint resolution 278, as reported from the Committee on Insular Affairs, reads as follows:

JOINT RESOLUTION To authorize the President of the United States to secure the neutralization o the Philippine Islands and the recognition of their independence by international agreement.

Whereas it is the purpose of the United States to relinquish sovereignty over the Philippine Islands and the people thereof and to permit said people to establish for themselves an independent government, and it being eminently desirable that such independence shall be secured and safeguarded by a general treaty of neutrality: Therefore

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he hereby is, requested to open negotiations with such foreign Governments as in his judgment should be parties to the compact, including those of Great Britain, Germany, France, Russia, Japan, and Spain, whereby the neutralization of the Philippine Islands shall be guaranteed and their independence recognized through international agreement.

This resolution is premature. According to the usages of international law, no State can be neutralized except it be a sovereign, independent State, capable itself of being a party to the compact. The Philippine Islands do not constitute such a State.

It is our belief that the Philippines are not prepared or fitted for self-government. It is not, indeed, proposed by anybody that they shall be made an independent State in the very near future. It is true that over our protest the Committee on Insular Affairs has, within the past week, reported, and there is now pending, H. R. 22143, entitled "A bill to establish a qualified independent government for the Philippines, and to fix the date when such qualified independence shall become absolute and complete, and for other purposes," but that bill has not yet been enacted into law. And if it shall be, there will remain a period, from the date of its enactment until July 4, 1921, during which the Philippines will not be independent of the United States, can not perform certain functions without our consent, or pass laws which shall not be subject to the Presi-

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dent's veto. By the terms of that bill the United States must "protect them (the Philippines) against invasion, and, on application of the Congress thereof, against domestic violence, for a period of eight years from and after the 4th day of July, 1913." Under such conditions it would be vain and foolish to attempt negotiations with other nations for the present neutralization of the Philippines, whose independence it is not proposed to grant until 1921.

The reasons why we do not believe the Filipinos fitted for self-government now, or that it would be safe or wise at this time to promise them absolute independence at any given future date, are sufficiently set forth in our minority report upon H. R. 22143, which, for convenience of reference, we make part hereof and attach as Exhibit A.

M. E. OLMSTED.
E. D. CRUMPACKER.
CHARLES E. FULLER.
E. H. HUBBARD.
C. R. DAVIS.
E. A. MORSE.
H. M. TOWNER.

EXHIBIT A.

PHILIPPINE INDEPENDENCE.

Mr. Olmsted, from the Committee on Insular Affairs, submitted the following, as the views of the minority (to accompany H. R. 22143):

Whether the acquisition of the Philippine Islands was necessary or unnecessary, wise or unwise, need not now be discussed. Under the treaty with Spain they came into our possession, and we became responsible to the inhabitants thereof and to the world for the maintenance of peace and good order therein and the advancement of prosperity.

The bill (H. R. 22143) providing for Philippine independence would, if enacted into law, increase rather than lessen our responsibility, while lessening our ability to perform our moral and just obligations.

The inhabitants of the Philippine Islands do not constitute a homogeneous people. They are composed of many different tribes, some styled as civilized and some admittedly wholly wild. There are some 15 or 20 different languages or dialects spoken in the islands. In many instances those who speak one dialect can not speak or understand any other. Only about 10 per cent of all the people can read and write in any language or dialect, and less than 3 per cent possess what we would call a fair common-school education. Of the entire 8,000,000, less than 2½ per cent, or about 200,000, have been found qualified to vote under existing laws. A few of these, chiefly among the Tagalogs, are very well educated. A smaller number are ambitious to govern, and they have no difficulty in stirring up a very considerable popular sentiment in favor of entire independence. There are, on the other hand, many who privately, if not publicly, look with fear and disfavor upon such a prospect. Spain was not able, with all her power, to maintain decent government, and turned the islands over to us in a very disordered condition. It required some time, no small expenditure of money, and, unhappily, some sacrifice of human life, to restore order; but it was finally restored.

Under American rule order has been brought out of chaos; the people of the islands have enjoyed better government and more of self-government than ever before. Life, liberty, and property have never been so fully protected as at the present time.

The wild and uncivilized inhabitants of the islands outnumber, three to one, those who would be qualified to vote under the provisions of the pending bill. These uncivilized and wild peoples in the non-Christian Provinces are governed by the Philippine Commission appointed by the President of the United States. They are not within the jurisdiction of the Philippine Assembly, which legislates for the Christian Provinces. They are satisfied to be ruled by the United States, but would fight at the drop of the hat if turned over to the government of those with whom they were at war at the time of the American occupation.

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The first governor of the Philippines was William Howard Taft. His administration was eminently successful and he became very popular with the inhabitants. Later, as Secretary of War, he had a certain supervision of their affairs. His long residence there, his subsequent visits, his association with the people of all classes and of all parts of the islands, and his familiarity with the Spanish language, all join to make him the best qualified American to speak upon the subject. In a special message, which, as Secretary of War, he made to President Roosevelt in 1908, he said:

"Any attempt to fix the time in which complete self-government may be conferred upon the Filipinos in their own interest is, I think, most unwise. The key to the whole policy, outlined by President McKinley and adopted by Congress, was that of the education of the masses of the people and the leading them out of the dense ignorance in which they are now, with a view to enabling them intelligently to exercise the force of public opinion without which a popular self-government is impossible.

"It seems to me reasonable to say that a condition can not be reached until at least one generation shall have been subjected to the process of primary and industrial education, and that when it is considered that the people are divided into groups speaking from 10 to 15 different dialects, and that they must acquire a common medium of communication, and that one of the civilized languages, it is not unreasonable to extend the necessary period beyond a generation. By that time English will be the language of the islands, and we can be reasonably certain that a great majority of those living there will not only speak and read and write English, but will be affected by the knowledge of free institutions and will be able to understand their rights as members of the community and to seek to enforce them against the pernicious system of caciquism and local bossism, which I have attempted in this report to describe.

"But it is said that a great majority of the people desire immediate independence. I am not prepared to say that if the real wish of the majority of all the people—men, women, and children, educated and uneducated—were to be obtained, there would not be a very large majority in favor of immediate independence. It would not, however, be an intelligent judgment based on a knowledge of what independence means, of what its responsibilities are, or of what popular government in its essence is. But the mere fact that a majority of all the people are in favor of immediate independence is not a reason why that should be granted if we assume at all the correctness of the statement, which impartial observers can not but fail to acquiesce in, to wit, that the Filipinos are not now fit for self-government.

"The policy of the United States is not to establish an oligarchy, but a popular self-government in the Philippines. * * * The presence of the Americans in the islands is essential to the due development of the lower classes and the preservation of their rights."

And again, in the same report, Secretary Taft said:

"The educated Filipino has an attractive personality. His mind is quick, his sense of humor fine, his artistic sense acute and active; he has a poetic imagination; he is courteous in the highest degree; he is brave; he is generous; his mind has been given by his education a touch of the scholastic logicism; he is a musician; he is oratorical by nature.

"The educated Filipino is an aristocrat by Spanish association. He prefers that his children should not be educated at the public schools, and this accounts for the large private schools which the religious orders, and at least one Filipino association, are able to maintain. In arguing that the Philippines are entirely fit for self-government now, a committee of educated Filipinos once filed with the civil governor a written brief, in which it was set forth that the number of 'illustrados' in the islands was double that of the offices—central, provincial, and municipal—and therefore the country afforded two 'shifts' of persons competent to run the Government. This, it was said, made clear the possibility of a good government if independence was granted. The ignorance of the remainder of the people, admitted to be dense, made no difference. I cite this to show of how little importance an intelligent public opinion or an educated constituency is regarded in the community and government which many of the educated Filipinos look forward to as a result of independence."

In the special message to Congress presenting that report, President Roosevelt said:

"I transmit herewith the report of Secretary Taft upon his recent trip to the Philippines. I heartily concur in the recommendations he makes. * * * No great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accident of war to its hands. If we had followed the advice of the misguided persons who wished us to turn the islands loose and let them suffer whatever fate might befall them, they would have already passed through a period of complete and bloody chaos and would now undoubtedly be the possession of some other power which there is every reason to believe would not have done as we have done. * * * Save only our attitude toward Cuba, I question whether there

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is a brighter page in the annals of international dealing between the strong and the weak than the page which tells us of our doings in the Philippines. I call especial attention to the admirably clear showing made by Secretary Taft of the fact that it would have been equally ruinous if we had yielded to the desires of those who wished us to go faster in the direction of giving the Filipinos self-government and if we had followed the policy advocated by others, who desired us simply to rule the islands without any thought at all of fitting them for self-government. * * * It will probably be a generation, it may even be longer, before this point is reached; but it is most gratifying that such substantial progress toward this as a goal has already been accomplished. We desire that it be reached at as early a date as possible for the sake of the Filipinos and for our own sake. But improperly to endeavor to hurry the time will probably mean that the goal will not be attained at all."

At a still later period Hon. J. M. Dickinson, Secretary of War, having made an extended visit to the Philippines, in a special report to the President dated November 23, 1910, spoke of the attempt by politicians, through the press and in other ways, to stimulate a general demand for immediate independence. He said:

"While, as stated, these are the only views publicly expressed, I became convinced from reliable evidence that many of the most substantial men, while not openly opposing the demands publicly voiced, would regard such a consummation with consternation. They realize that the Government would fall into the hands of a few who would dominate the masses; that the administration, even without outside interference, could not be successfully carried on; that there would be internal dissensions and probably civil war; and that if the United States did not interfere they would fall an easy prey to some foreign power."

In his last annual message to Congress, President Roosevelt said:

"The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. But it is well for them (and well also for those Americans who, during the past decade, have done so much damage to the Filipinos by agitation for an immediate independence for which they were totally unfit) to remember that self-government depends, and must depend, upon the Filipinos themselves. All we can do is to give them the opportunity to develop the capacity for self-government. If we had followed the advice of the foolish doctrinaires who wished us at any time during the last 10 years to turn the Filipino people adrift, we should have shirked the plainest possible duty and have inflicted a lasting wrong upon the Filipino people. We have acted in exactly the opposite spirit. We have given the Filipinos constitutional government; a government based upon justice; and we have shown that we have governed them for their good and not for our aggrandizement. At the present time, as during the past 10 years, the inexorable logic of fact shows that this government must be supplied by us and not by them. We must be wise and generous; we must help the Filipinos to master the difficult art of self-control, which is simply another name for self-government. But we can not give them self-government save in the sense of governing them so that gradually they may, of they are able, learn to govern themselves. Under the present system of just laws and sympathetic administration, we have every reason to believe that they are gradually acquiring the character which lies at the basis of self-government, and for which, if it be lacking, no system of laws, no paper constitution, will in anywise serve as a substitute. Our people in the Philippines have achieved what may legitimately be called a marvelous success in giving to them a government which marks on the part of those in authority both the necessary understanding of the people and the necessary purpose to serve them disinterestedly and in good faith. I trust that within a generation the time will arrive when the Filipinos can decide for themselves whether it is well for them to become independent or to continue under the protection of a strong and disinterested power able to guarantee to the islands order at home and protection from foreign invasion. But no one can prophesy the exact date when it will be wise to consider independence as a fixed and definite policy. It would be worse than folly to try to set down such a date in advance, for it must depend upon the way in which the Filipino people themselves develop the power of self-mastery."

The pending bill provides that "the United States guarantee to the Philippines their independence, and shall protect them against invasion, and, on application of the Congress thereof, against domestic violence for the period of eight years."

The Moro Province is non-Christian and uncivilized, although it has a few intelligent people. They do not consider themselves as Filipinos, and were, when we took the islands, in a state of war. They are now well satisfied to be governed by the United States, but wholly unwilling to be governed from Manila. When Secretary Dickinson was in that Province in 1910 he visited Zamboanga, where thousands of

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Moros came in to greet him. The following are the speeches of a few of the Moro spokesmen, as interpreted into both English and Spanish and stenographically reported:

Datu Mandi spoke as follows, his remarks being interpreted in English by Mr. Edward Schuck:

"I am here, El Raja Mura Mundi, representing the Moros. Here they are, the whole crowd of them, come to honor the Secretary of War. As I look about I see far more Moros than the Filipino contingent, and if that is so, that is the reason it is called the Moro Province." [Tremendous applause from the Moros.]

"When first the Americans came here, from the very beginning, whatever they asked me to do I did. I was loyal to them ever. Now I have heard a rumor that we Moros are in the hands of the Filipinos.

"In the Spanish times I was a datu (when the Spanish left this became a republic). Then I saw and found out that things did not go well. When a man had two measures of rice one was taken away from him; when a man had two head of cattle one was taken away from him." [Applause by the Moros.]

"If the American Government does not want the Moro Province any more they should give it back to us. It is a Moro Province. It belongs to us." [Tremendous applause by the Moros.]

Datu Sacaluran spoke as follows:

"I am an old man. I do not want any Moro trouble. But if it should come to that, that we shall be given over to the Filipinos, I still would fight." [Applause.]

Ulankaya Ujaton said:

"I am not a civilized man, but I have learned that slavery, killing, and stealing is a bad thing. We do it no more. But, if that it should be that we shall be given over to another race, we had better all be hanged." [Applause.]

Nadji Nungnui spoke as follows:

"I want to tell the Secretary of War that I am a Samal. I come from the Samal race. The Samal race—in former days there was not a worse race than the Samal race; and that was in the olden days. Ever since the Spanish times up to now we have learned different.

"The Secretary of War must look the matter in the face. We are a different race; we have a different religion; we are Mohammedans. And if we should be given over to the Filipinos, how much more would they treat us badly, when they treated even the Spanish badly, who were their own mothers and their own fathers in generation? How did they treat them? Think about it. Think twice. We far prefer to be in the hands of the Americans, who are father and mother to us now, than to be turned over to another people." [Applause.]

Secretary Dickinson was also presented with a set of resolutions, setting forth that "The Moro Province is inhabited by many races and different tribes, with differences in religion, customs, and habits, with a varying degree of civilization," and that "We have the best form of government possible under our existing conditions, and we want no changes at the present time."

What would be the condition of the United States to-day if it were under guaranty to protect Mexico from domestic violence as well as against foreign invasion? Can it be doubted that if the Philippines were set adrift the present conditions in Mexico would be calm and peaceful as compared with those which might soon be expected in those islands? The Government of the United States could not, under any circumstances, sit idly by and see those tribes and peoples fighting among each other; nor could it, either before or after the expiration of the eight years' period, permit any other power to make war upon and seize them.

Our cares and responsibilities would be vastly increased by the passage of this bill, while our ability to meet them would be greatly impaired.

The expense to the United States of preserving peace and order under an attempted government by the Filipinos themselves would be greater than under our present control.

There seems to be an impression that the Government of the Philippines is imposing a vast financial burden and expense upon the United States. That is far from true.

The government of those islands is now entirely self-supporting and its finances in good condition.

The Philippines do not at present impose any expense upon the United States, except in the excess cost of maintaining a portion of the Army there over what it would cost to keep it at home.

The expense of transportation does, of course, add something to the cost of the Army. On the other hand, the largely increased market afforded by the Philippines for the products of our farms and factories is of a great deal of value to us.

The Philippines are rich and fertile, but their agriculture is of the crudest possible kind. If it were our intention to hold and develop them, they could be made

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extremely valuable possessions; but, as expressed by Presidents McKinley, Roosevelt, and Taft, it is our policy to help them up to a point where they are fitted for self-government.

It would be a cowardly shirking of our duty, a disgrace to the American people, and an injury to the Filipinos to give them self-government before they are fitted for it.

M. E. OLMSTED.
E. D. CRUMPACKER.
CHARLES E. FULLER.
E. H. HUBBARD.
CHARLES R. DAVIS.
E. A. MORSE.
H. M. TOWNER.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 636.

COINAGE OF THREE-CENT PIECES AND ONE-HALF-CENT PIECES.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. Ashbrook, from the Committee on Coinage, Weights, and Measures, submitted the following

REPORT.

[To accompany H. R. 23570.]

The Committee on Coinage, Weights, and Measures, having had under consideration H. R. 23570, to authorize the coinage of 3-cent pieces and one-half-cent pieces, and for other purposes, report the same back with a recommendation that the bill be passed with the following amendment:

On page 2, lines 3 and 4, strike out the words "shall have one perforation in the center, and."

The bill has three purposes—(1) to authorize the coinage of the 3-cent piece, (2) to authorize the coinage of the one-half-cent piece, (3) to change the composition of the 1-cent piece.

Almost every civilized government in the world has one or more coins intermediate in value between our 1-cent piece and 5-cent piece, and also one or more coins of a value approximately equivalent to one-half cent or less. Canada, Peru, and Paraguay are the only Governments which have no coin intermediate in value between 1 cent and 5 cents; and Canada, Argentina, Venezuela, Colombia, Uruguay, and Paraguay are the only countries which have no coin of a value approximately equal to or less than one-half cent.

The argument in favor of a 3-cent coin is most clearly put in the following letter from Hon. Newton D. Baker, mayor of Cleveland, and Hon. Brand Whitlock, mayor of Toledo:

To Members of the Congress of the United States:

A bill to authorize the coinage of 3-cent pieces was introduced in the House of Representatives by Mr. Robert J. Bulkley on December 4, 1911, and in its behalf we respectfully petition your active support.

The chief advantages of such a coin impress us as being these:

First. A 3-cent piece will be of incalculable immediate advantage to the communities wherein prices, fares, etc., of various commodities and services are on a 3-cent basis or a multiple thereof, e. g., 3-cent fare in Cleveland, Toledo, and elsewhere on street railways, 3-cent articles on bill of fare, 3-cent amusements, etc.

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Second. A 3-cent piece will provide a smaller medium with which to purchase hundreds of articles which are now arbitrarily sold for a nickel for want of a smaller coin, thus establishing a juster and more rational relation between value and price.

Third. A 3-cent piece will enable the masses to purchase commodities in smaller quantities, as in European countries, thus encouraging economical buying.

There are no valid, substantial objections to the coinage of a 3-cent piece. On the other hand, the advantages to be gained are many and substantial, and we believe a careful consideration of them will win your confidence and the approval and indorsement of the bill.

Respectfully submitted.

NEWTON D. BAKER,
Mayor of Cleveland.

BRAND WHITLOCK,
Mayor of Toledo.

The 3-cent piece has been indorsed by formal action of numerous city councils throughout the country.

The coinage of a one-half-cent piece is desirable for reasons similar to those urged in behalf of the 3-cent piece, namely, to encourage economic buying, both directly, by affording the means of making smaller change, and indirectly, by the psychological effect produced by the existence of smaller coins. The Treasury Department has received many communications urging the coinage of a one-half-cent piece. A marked instance of the need of a one-half-cent piece is in the new drinking cup automatic machines which have been very generally installed in railroad stations to sell for 1 cent a small drinking cup which might easily be sold for one-half cent.

The coinage of the old 3-cent piece was discontinued in 1890, chiefly because of the inconvenience resulting from the similarity in appearance between the 3-cent piece and the dime. Since that time the general attitude of the Treasury Department has been rather antagonistic to additions to the number of our minor coins on the ground that it might be difficult to distinguish them one from another, and that the confusion resulting would offset any conveniences that might be derived from the additional coinage. Recently, however, upon more thorough study of the question the Secretary of the Treasury and the Director of the Mint have come to the conclusion that confusion can be entirely avoided by coining the new coins either with holes through the center or with scalloped edges, both of which devices have been successfully used in other countries.

The Director of the Mint has had made and submitted to the committee experimental blank coins representing both the 3-cent piece and the one-half-cent piece. These have been tested out in various slot machines, and models have been determined upon which will not interfere with existing slot machine and coin-counting machine apparatus.

The bill provides that the new coin shall be made of a composition of 75 per cent copper and 25 per cent nickel, which is the same composition that has been for many years used in the 5-cent piece and has given complete satisfaction. The bill further provides that hereafter 1-cent pieces shall be made of the same composition, instead of the present composition of 95 per cent copper and 5 per cent tin and zinc, which is in many ways unsatisfactory. The present 1-cent pieces after a little use present a very unattractive appearance, and in some cases corrode so badly as to be actually dangerous to health. The Director of the Mint has submitted to the committee a number of 1-cent pieces which have been returned to the Treasury for redemption in a very bad condition.

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This bill has been submitted to the Secretary of the Treasury, who wrote the following letter expressing his opinion of it.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 20, 1912.

Hon. ROBERT J. BULKLEY,
House of Representatives.

MY DEAR SIR: Responding to your request of this date for my opinion upon your bill providing for two new coins, to wit: A half-cent piece and a 3-cent piece, and for the change in the composition of the 1-cent piece. I beg to say that there is no objection to the introduction of the new pieces, provided they are in size and appearance readily distinguishable from the existing coins, which I believe can be accomplished by the means discussed in our interview, and which are embodied in your bill. There is undoubtedly a demand for a piece between the 1-cent piece and the 5-cent piece, and also for a smaller unit than the 1-cent piece. Always conditioned upon their being readily distinguishable, it is desirable that the public shall have the use of as many denominations as are needed to best serve its convenience.

There has long been complaint against the dull and dirty appearance of our 1-cent piece, and at times these coins are returned to the Treasury in a condition which is an actual menace to the health of the Government employees who must handle them. The proposed composition is the same which has long been in use for the 5-cent piece, and has proven satisfactory here and in other countries.

Respectfully,

FRANKLIN MACVEAGH, *Secretary.*

The committee amendments were both suggested by the Director of the Mint after more thorough investigation subsequent to the introduction of the bill. The weight of the one-half cent piece is in any case merely an arbitrary matter. It is the opinion of the Director of the Mint that the addition of a little more body in the coin would be an advantage, and so he recommended that the weight be made 35 grains instead of 30, as provided in the bill. The coin will be made smaller in diameter than the 10-cent piece and will probably have a scolloped edge, so that there is no danger of its being confused with the dime.

The second amendment strikes out the provision requiring a perforation in the 3-cent piece. It is believed that the omission of this language from the law will not prevent the Treasury Department from coining a perforated coin, should they deem it wise, but will allow them the discretion of distinguishing the 3-cent piece by means of a scalloped edge rather than by a perforation. The British Indian 1-anna coin, which a few years ago was made with a hole through the center, has recently been changed, and the new 1-anna pieces have the scalloped edge and no perforation. The change resulted in an improvement in the appearance of the coin.

The remaining provisions of the bill under consideration seem to require no comment, as they are the usual provisions which have generally been made in coinage laws.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 637.

DISPOSITION OF SURPLUS AND UNALLOTTED LANDS IN STANDING ROCK INDIAN RESERVATION.

MAY 1, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BURKE of South Dakota, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany S. 109.]

The Committee on Indian Affairs, to whom was referred Senate bill 109, have considered same and report a substitute by way of amendment and recommend that the substitute be passed.

Amend the bill by striking out all after the enacting clause and inserting the following:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, lying and being within the following-described boundaries, to wit: Commencing at a point in the center of the main channel of the Missouri River where the township line between townships eighteen and nineteen north intersects the same; thence west on said township line to a point where the range line between ranges twenty-two and twenty-three east intersects the same; thence north along the said range line to the northwest corner of section nineteen, in township twenty-one north, of range twenty-three east; thence east on the section line north of sections nineteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four to a point where the same intersects the range line between ranges twenty-three and twenty-four east; thence north along said range line to a point where the same intersects the State line between the States of South Dakota and North Dakota; thence west on said State line to a point where the range line between ranges eighty-four and eighty-five west in North Dakota intersects the same; thence north on said range line between ranges eighty-four and eighty-five west to a point where it intersects the center of the main channel of the Cannon Ball River; thence in a northeasterly direction down and along the center of the main channel of said Cannon Ball River to a point where it intersects the center of the main channel of the Missouri River; thence in a southerly direction along the center of the main channel of the said Missouri River to the place of beginning, and including also entirely all islands, if any, in said river, except such portions thereof as have been allotted to Indians: *Provided*, That sections sixteen and thirty-six of the lands in each township therein shall not be disposed of, but shall be reserved for the use of the common schools of the States of South Dakota and North Dakota, respectively: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon

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for the benefit of said Indians: *Provided, however*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization, heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in said proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and sixty days prior to the date set by said proclamation for the entry of said surplus lands: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the unsurveyed lands, if any, within said reservation, and to cause an examination to be made of the lands by experts of the Geological Survey, and if there be found any lands bearing coal or other valuable minerals the said Secretary is hereby authorized to reserve them from allotment or disposition until further action by Congress: *And provided further*, That the rights of honorably discharged Union soldiers and sailors of the late Civil and Spanish Wars or Philippine insurrection, as defined and described in section twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the States of South Dakota and North Dakota, respectively, shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections sixteen or thirty-six, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than ten acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. He shall cause not more than twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings, or in improvements within the town sites wherein such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided: *Provided further*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools.

SEC. 4. That the price of said lands entered as homesteads under the provisions this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, six dollars per acre, and upon all lands entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, four dollars per acre; after the expiration of six months, after the same shall have been opened for settlement and entry, the price shall be two dollars and fifty cents an acre.

SEC. 5. That the price of said lands shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal installments, the first within two years and the remainder annually in three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead law at the price fixed herein: *Provided*, That nothing in this act shall prevent homestead settlers

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from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made. In addition to the price to be paid for the land the entryman shall pay the same fees and commissions at the time of commutation of final entry as now provided by law where the price of land is one dollar and twenty-five cents per acre; and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to patent for the lands entered: *Provided further*, That any lands remaining unsold after said lands have been opened to entry for five years may be sold to the highest bidder for cash, without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

SEC. 6. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums of which the said tribe may be entitled, which shall draw interest at three per centum per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization: *Provided*, That from any moneys in the Treasury to the credit of the Standing Rock Indians derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section six of the act approved May twenty-ninth, nineteen hundred and eight, the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto a sum not exceeding forty dollars per capita.

SEC. 7. That sections sixteen and thirty-six of the land in each township within the tract described in section one of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at two dollars and fifty cents per acre, and the same are hereby granted to the States of South Dakota and North Dakota, respectively, for such purpose, and in case any of said sections or parts thereof are lost to either of the said States by reason of allotments thereof to any Indian or Indians or otherwise, the governor of each of said States, respectively, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section one of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

SEC. 8. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred and eighty thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the States of South Dakota and North Dakota, as provided in section seven of this act. And there is hereby appropriated the further sum of ten thousand dollars, or so much thereof as may be necessary, for the purpose of making the surveys and allotments provided for herein: *Provided*, That the said ten thousand dollars, or so much thereof as may be expended for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Standing Rock Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The substitute is the Senate bill with a number of amendments suggested by the Interior Department.

The purpose of the bill is to authorize the sale of the surplus or unallotted lands in the Standing Rock Indian Reservation in the

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States of North and South Dakota, and its general provisions are identical with other acts that have heretofore been passed for the sale and disposition of Indian reservations.

The surplus lands which this bill proposes to dispose of aggregate 219,000 acres and is the balance of the unallotted lands in the Standing Rock Reservation. The Senate Committee on Indian Affairs in reporting the bill, among other things, stated the following:

It is the understanding of your committee that the allotments have been made to all Indians on the reservation. Provision is made by the bill for the allotment of any minor child born subsequent to the completion of the allotments provided for and 60 days prior to the date set by the proclamation for the entry of the said surplus lands proposed to be opened.

In the opinion of your committee the surplus and unallotted lands are unnecessary for the use of the Indians, and the opening of the reservation will result in a large increase in the settlement and development of that part of the State and will, to a very large extent, enhance the value of the holdings of the Indians. Your committee regards it as of the highest importance, not only to the Indians themselves but to the people of the State and to the General Government, that all the surplus and unallotted lands should be opened to settlement at the earliest practicable date. The bill provides that prior to the issuance of the proclamation opening the lands to settlement the Secretary of the Interior shall cause allotments to be made to the Indians and minors belonging to or holding tribal relations with the Indians upon the reservation who have not heretofore been allotted.

Sections 16 and 36 of the lands in each township are not to be disposed of, but are reserved for the use of the common schools of the States, and these lands are to be paid for by the Government in conformity with the provisions of the act admitting the States of South Dakota and North Dakota into the Union. The Secretary of the Interior is authorized to reserve such lands as are necessary for agency, school, and religious purposes in conformity with the practice of the Government in measures of this character.

The Secretary of the Interior is also authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests. The Secretary of the Interior is further authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site. He is further authorized to cause not more than 20 per cent of the net proceeds received from the sale of the town sites to be set apart and expended under his direction in aiding in the construction of schoolhouses or other buildings or improvements in the town sites. Considering the fact that the Indian allotments are relieved from taxation for a period of 25 years, and the Indians are to receive like advantages with the whites in connection with the above, it is thought by your committee that such a provision is wise, equitable, and just not only to the Indians, but to the prospective settlers.

The moneys realized from the sales of the town sites, less the amount set apart to aid in the construction of schoolhouses or other buildings or improvements, are to be applied to the benefit of the tribe. The moneys derived from the sale of the lands as well as the town sites, with the exception above referred to, are to be deposited in the Treasury of the United States to the credit of the tribe, and the same shall draw interest at the rate of 3 per cent per annum, and these moneys shall be expended for the benefit of the tribe, under the direction of the Secretary of the Interior.

Upon the recommendation of the department, an additional section has been added to the bill, which probibits the introduction of intoxicating liquors upon the lands to be opened for a specified period. It is felt by your committee that such a prohibition would serve as a protection, especially to the Indians, and their interests would be highly conserved if the use of intoxicants were prohibited. This is a matter of the highest concern, not only to the Indians themselves but to the General Government and to the people of the State, that the Indians should be safeguarded as much as possible from the evils resulting therefrom.

Although Congress has full power to enact legislation of this character without the consent of the Indians, it was felt the Indians should be fully advised as to the provisions of the pending measure and their views should be asked in regard thereto. The bill in question was submitted to the Indians of the reservation by a competent and experienced Indian inspector and the wishes of the Indians were sought to be met in a fair and just spirit. A number of the amendments proposed are in line with the suggestions and requests of the Indians. It is the understanding of your committee that the other amendments suggested are entirely satisfactory to the members of the Indian tribe.

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Section 4 of the Senate bill provides for fixing the price of the lands by appraisement. The department brought to the attention of the committee that the Indians objected to this method of fixing the price, complaining that it incurred large expense, and the department recommended the fixing of the price on a basis of all lands taken within three months after the opening, the price to be $6; the next three months, $4; and thereafter, $2.50 per acre. This plan was adopted in the opening of Gregory County, in the Rosebud Reservation, and in a later act for the sale of Tripp County, in the same reservation, and worked out very successfully. The prices fixed are those fixed by the commission who appraised lands in this same reservation under the act of May 29, 1908, and in the opinion of the committee lands are of no higher value now than when the appraisement before referred to was made. Attention is called to the report of the Interior Department, which quotes from a letter, under date of November 26, 1910, from former supervisor of allotting agents, Carl Gunderson, who reported that the unallotted lands in this reservation could practically be placed in one class—namely, grazing land—and $2.50 per acre was the appraised price of lands so classified by the appraisers, opened under the act before referred to. If there are any agricultural lands that are of greater value than $2.50 per acre, they will be filed upon and taken under the $6 price during the first three months, or $4 during the next three months.

There was some opposition to the bill by the Indians, due largely to the fact that they complained because they have not been paid any portion of the proceeds received from the sale of other lands authorized to be sold under the act of May 29, 1908, that act providing that the money derived from the sale of such lands shall be deposited in the Treasury to the credit of said Indians, to be expended for their benefit and under the direction of the Secretary of the Interior. They recently made an application for a $40 per capita payment, and the Secretary of the Interior referred to the comptroller the question of whether there was authority under the law to make such a payment. The assistant comptroller, by a decision dated April 22, 1912, decided that a per capita payment to these Indians is not authorized by the act of May 29, 1908. In the substitute adopted the committee incorporated the following provision:

Provided, That from any moneys in the Treasury to the credit of the Standing Rock Indians, derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section six of the act approved May twenty-ninth, nineteen hundred and eight, the Secretary of the Interior be, and he is hereby, authorized in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto, a sum not exceeding forty dollars.

There has been great drought for the past two years in the Standing Rock Indian Reservation, and the Indians have been unable to raise any crops, and are therefore in need of some relief, and this provision makes it possible for the Secretary to make a per capita payment to them not exceeding $40 to each Indian, if in his discretion he deems it for their best interests.

Section 11 of the Senate bill was objected to by the Indians and is eliminated from the substitute.

There is herewith submitted with this report the letter from the First Assistant Secretary of the Interior on the bill, and also a copy of the report made by Maj. James H. McLaughlin, who negotiated with the Indians with reference to the proposed legislation.

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DEPARTMENT OF THE INTERIOR,
Washington, April 30, 1912.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs, House of Representatives.

SIR: You have submitted, with request for report thereon, H. R. 4443 and S. 109, each being to authorize the sale and disposition of surplus and unallotted lands in the Standing Rock Indian Reservation in the States of South Dakota and North Dakota. While these bills differ in the wording, the substantial features are the same. I am therefore submitting a report on S. 109 as covering the subject matter.

In January, 1910, Inspector James McLaughlin met the Indians of the Standing Rock Reservation in open council to explain to them the provisions of Senate bill 3284, Sixty-first Congress, second session, providing for the opening of their surplus lands, and to obtain an expression of their views thereon. At that time the Indians expressed a willingness to have their surplus lands opened to settlement and entry, but objected to certain provisions of Senate bill 3284. These objections have been met, however, in Senate bill 109, with the exception of their objection to the provision for the appraisement and classification of the surplus lands. The Indians feel that the great expense involved in classifying and appraising the surplus lands should not be incurred.

The department is of the opinion that a general valuation of the several classes of land can be determined by the classification and appraisement heretofore made of the provisions of the act of May 29, 1908 (35 Stat., 460). These lands were classified as agricultural lands of the first class, agricultural lands of the second class, and grazing lands, and appraised at $6, $4, and $2.50 per acre, respectively. It is not believed there has been any such change in the market value of these lands as to demand any change in these figures. It is suggested that the following section be inserted in lieu of section 4:

"That the price of said lands entered as homesteads under the provisions of this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, six dollars per acre, and upon all land entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, four dollars per acre; after the expiration of six months after the same shall have been opened for settlement and entry, the price shall be two dollars and fifty cents per acre."

A letter to the Commissioner of Indian Affairs, under date of November 26, 1910, from former Supervisor of Allotting Agents Carl Gunderson, who also made the allotments within the Standing Rock Reservation, and who was thus in a position to make accurate reports with regard to the lands therein, reads as follows:

"It is my understanding that a bill is pending in Congress which provides for the opening to settlement of the remainder of the standing Rock and Cheyenne River Reservations, in South and North Dakota; that a provision of that bill calls for the appointment of a commission for each reservation to appraise the lands to be opened.

The attention of the office is respectfully called to the fact that there is very little if any agricultural land on either reservation that is unallotted and that would be thrown open to settlement. Practically all the unallotted land could be placed in one class, viz, 'grazing land.'

"Under such circumstances it would not seem advisable to have an appraising commission appointed for each reservation, which would require an expenditure of from $15,000 to $20,000."

Should this change meet with the approval of your committee the provision for the reappraisement of the unsold lands, beginning with the word "Provided," in line 20, section 5, page 8, and ending with the word "act," in line 24, should be stricken from the bill, and that part of section 9, page 10, beginning with the word "twenty-five," in line 22, and ending with the word "herein," in line 25, should be stricken from the bill and the following inserted in lieu thereof:

"Fifteen thousand dollars, or so much thereof as may be necessary for the purpose of making the surveys and allotments provided for herein."

The department is of the opinion that not more than 20 per cent of the net proceeds derived from the sale of town lots should be expended in the construction of schoolhouses and other public buildings within the town sites authorized by section 3 of the bill, and it is suggested that the bill be amended by striking out the word "five" in line 21, section 3, page 5.

To facilitate educational work among the Indians and to relieve the Government from expense connected therewith as much as possible, the department respectfully suggests the incorporation of the following in the form of an amendment to section

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6, by striking out the period after the word "Interior" in line 16, page 9, inserting in lieu thereof a colon and the following:

"*Provided*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools."

The bill provides for the payment of $2.50 per acre to the Indians for the lands granted to the States of North Dakota and South Dakota for school purposes. This department is of the opinion that the Indians should be paid the fair value of such lands, at least not less than $2.50 per acre. This price is probably adequate in the present instance, due principally to the fact that the lands in this reservation remaining after allotments are made will not be desirable.

In order that the lieu lands selected by the States may not be located in one compact body, and to prevent the choicest lands being selected in lieu of those lost to the States, it is suggested that section 7 of the bill be amended by inserting after the word "appropriated," in line 6, page 10, the following, "not exceeding two sections in any one township."

The Indians in open council held November 28, 1911, to consider the provisions of Senate bill 109, expressed a strong opposition to section 11, which provides that not to exceed 20 per cent of the net proceeds arising from the sale of lots hereafter sold within the town sites set aside under the provisions of the act of May 29, 1908, supra, be expended by the Secretary of the Interior in the construction of schools or other public buildings or in municipal improvements in the towns in which such lots are located. I am of the opinion that it would be advisable to omit this section from the bill.

Inspector James McLaughlin, acting under instructions dated August 11, 1911, met the Indians in their council held November 28, 1911, and explained to them fully the provisions of Senate bill 109. After a thorough discussion of the matter the Indians expressed a strong opposition to the opening of the surplus lands of their reservation at this time, which are reported by the superintendent to approximate 219,000 acres. The Indians set forth that the unalloted lands of the diminished reservation are needed by them as communal grazing grounds and for allotments to children born after the closing of the allotment roll, and also that they have as yet received no income from the disposal of the surplus lands opened under the provisions of the act of May 29, 1908, supra.

Copies of the inspector's report, the council proceedings of November 28, 1911, a letter of the superintendent of the Standing Rock Indian School, and of resolutions adopted by the business committee of the Standing Rock Tribe on January 6, 1912, are inclosed for the information of your committee.

Later a delegation of these Indians visited Washington and, as I understand, presented their views to your committee. Inclosed is copy of statements made to the department March 25, 1912, by members of the delegation giving their reasons for their opposition to the enactment of the bill.

Notwithstanding the opposition to the opening of their reservation as expressed by the Indians in their council of November 28, 1911, I am of the opinion that the enactment of Senate bill 109, if amended as suggested herein, would be to the advantage of the Standing Rock Tribe at large.

Very respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Washington, D. C., December 16, 1911.

The SECRETARY OF THE INTERIOR.

SIR: Under departmental instructions of August 11 last, I have the honor to report my conferences with the Indians of the Standing Rock Reservation in the States of North Dakota and South Dakota, with reference to the sale and disposition of the surplus lands of their reservation, as contemplated by Senate bill 109, Sixty-second Congress, first session.

I met, by previous appointment, the Standing Rock Indians in council at their agency on Tuesday, the 28th ultimo, at which conference I read and fully explained to those assembled the provisions of said Senate bill, as shown by the council minutes transmitted herewith, Exhibit A, pages 1 to 5.

Owing to inclement weather, deep snow, and difficult traveling, the council was not so largely attended as it otherwise would undoubtedly have been, but those in attendance were leading members of the tribe, who had been duly chosen as delegates to represent and voice the sentiment of the Indians of the respective districts with

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reference to the proposed opening of their surplus lands, and as may be seen by the council minutes herewith, pages 5 to 11, inclusive, the general sentiment of the Standing Rock Indians, as expressed by their chosen speakers, is not favorable to the proposed opening under the provisions of the said bill. This, however, is, as usually met with from Indians when the question of opening any of their reservation lands is submitted to them, and notwithstanding the apparent opposition of the Standing Rock Indians, as voiced by the speakers in council, there is a strong sentiment prevailing among them favorable to the opening of their surplus lands under the general provisions of the said bill, provided some modifications are made in certain of its provisions, as hereinafter set forth, and those thus favoring the opening are the more advanced and progressive Indians of the reservation, many of whom thus expressed themselves to me both before and after the council, but did not wish to thus assert themselves in open council in opposition to the chosen speakers, who simply expressed themselves as instructed in their tribal conferences previous to their meeting with me in formal council.

One provision in the said bill which the Indians concurring in its general provisions desire to have modified is a clause in section 3, line 21, of page 5, providing that at least 25 per cent of the net proceeds arising from such sales (the sale of town lots within reserved town sites) be set apart for certain purposes, they desiring that the words "not exceeding twenty per centum" be substituted in said line for the wording "at least twenty-five per centum," so that the said clause will read:

"And he shall cause not exceeding twenty per centum of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or improvements in the town sites in which such lots are located."

In this connection I desire to submit that I am quite confident that the wording "twenty-five per centum" in said clause, as printed in the bill, is a clerical error, and was intended to read "twenty per centum," as such is the wording of a similar clause in Senate bills 108, 110, 111, 1624, and 1627, Sixty-second Congress, first session, with reference to surplus lands in the Cheyenne River, Rosebud, Pine Ridge, Crow Creek, and Lower Brule Reservations, respectively; therefore the said clause in Senate bill 109 for the Standing Rock Reservation should evidently read "twenty per centum" instead of "twenty-five per centum" as printed in the bill.

The general provisions of section 4 of said bill are very objectionable to the Standing Rock Indians, and equally objectionable to the Indians of the five other Sioux reservations, to whom I recently submitted similar bills, all of whom protest against the expensive method therein provided for the sale and disposition of their surplus lands, and urgently appeal for the adoption of a less expensive method than by a commission to classify and appraise the lands, as provided in said section of the bill, the expense of which is very great and has to be borne by the Indians.

A commission of three members, at $10 per day each and expenses, to classify and appraise the lands, as provided in said bill, together with the additional expenses incurred by registering and drawing for choice of location, is regarded by the Indians as unjust and unreasonable, the opening of the western portion of the Cheyenne River and Standing Rock Reservations under the act of May 29, 1908, by this method having, it is believed, cost the Indians of those two reservations $50,000 at least.

In this connection I would respectfully invite attention to departmental letter of March 4, 1908, addressed to me when submitting to the Cheyenne River and Standing Rock Indians Senate bill 1385 and House bills 17825 and 17884, Sixtieth Congress, first session, of which the following is an extract:

"It has been suggested to the Commissioner of Indian Affairs that instead of establishing any elaborate machinery for appraising the surplus lands, the lands be permitted to appraise themselves, as it were, by a method like this:

"A committee might be appointed, consisting of three persons, one a citizen of the State in which the lands lie, one representing the tribe whose surplus lands are under consideration, and the third a representative of the Interior Department, whose duty it shall be to meet and fix a price, to continue for six months or a year, at which the lands would be sold during that period; also a price somewhat lower at which the lands would becsold during the next six months or year, and a third price for a third similar period, and so on, as the circumstances existing on the reservation and the character of the lands might seem to warrant. For example, the commission could decide that all lands entered the first year should be disposed of at $5 per acre; during the second year at $4 per acre; during the third year at $2.50 per acre, etc. The purchasers might be trusted in looking out for their own interests to buy all the best lands at the higher price, and the second best lands at the next highest price, and thus down the list."

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This suggested method would meet the wishes of the Indians by greatly lessening the expense of classifying and appraising the lands in tracts of 160 acres each, as provided in the pending bill; also meet actual requirements by simplifying the sale and disposition of the isolated tracts of less than 160 acres, of which there are many in the several Sioux reservations, there being some tracts of 120 acres, others of 80 acres, and still others of 40 acres, and even less, surrounded by Indian allotments, which non-contiguous tracts can not be appraised in 160-acre tracts as provided in the bill.

A commission of three persons could examine the surplus lands of the Standing Rock Reservation and fix certain prices per acre to continue for certain periods of entry, as above suggested, and complete such work in not exceeding 15 days, and such method, from its inexpensiveness, would not only meet the wishes of the Indians in this respect, but do them simple justice, by the adoption of a less expensive system in the sale and disposition of their surplus lands than that employed in the opening of the western portion of the Cheyenne River and Standing Rock Reservations under the act of May 29, 1908.

The provision in section 5 of said bill, lines 20 to 24, page 8, appears unnecessary and might be eliminated without impairing the bill in any respect, which provision reads:

"That all lands remaining undisposed of at the expiration of four years from the opening of said lands to entry may, in the discretion of the Secretary of the Interior, be reappraised in the manner provided for in this act."

The above-quoted clause appears unnecessary, as the provision following same, lines 24 and 25, page 8, and lines 1 to 5, page 9, of the bill meets all reasonable requirements with reference to the land remaining unsold after having been opened to entry for five years.

The Indians protest against reappraisement of the unentered lands at the expiration of four years, after being subject to homestead entry, such additional expense being deemed unnecessary, they preferring that the lands remain subject to homestead entry for the period of five years after being opened to entry, after which period all lands remaining unentered to be sold to the highest bidder for cash, that they (the Indians) might thus be compensated within a reasonable period for all such unentered tracts, from which they would receive no benefit while remaining unentered, but which would afford free grazing for white men's stock, and in justice to the Indians all unentered tracts should be disposed of as promptly as possible after the lands have been opened to homestead entry for five years.

Another provision of the said bill objected to by the Indians is a clause in section 9, lines 4 and 5, page 11, which provides that the expense of classification and appraisement of the lands opened, and for the purpose of carrying out the provisions of the act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described in the bill, or from any money in the Treasury belonging to said Indian tribe.

The Indians do not object to the reimbursement provided for from the proceeds received from the sale of the lands opened to entry, as provided in the bill, but they earnestly protest against the wording in section 9 thereof, lines 4 and 5, page 11, reading "or from any money in the Treasury belonging to said Indian tribe"; and as there is not the slightest doubt but that the proceeds that would be received from the sales of these surplus lands will be far in excess of the expense of carrying out the provisions of the bill, and as the Indians regard this latter clause unreasonable, and that it might be more pleasing to the Indians, this objectionable clause might be eliminated without impairing the bill in any way.

Section 11 of the bill is very objectionable to the Standing Rock Indians, as a similar provision in Senate bill 108, Sixty-second Congress, first session, is to the Cheyenne River Indians, which provides that the Secretary of the Interior shall cause not more than 20 per cent of the net proceeds arising from town lots hereafter sold under his supervision within the former boundaries of the Standing Rock Indian Reservation, opened to settlement under the act of May 29, 1908, to be set apart and expended under his direction in the construction of schoolhouses or other public buildings or municipal improvements in the towns in which such lots are located.

In this connection I desire to state that not an Indian of the Standing Rock Agency whom I met knew of any tracts having been reserved for town sites under the act of May 29, 1908, but I met a white man who was chainman for Special Allotting Agent Carl Gunderson and with him when he reserved three tracts of 160 acres each for town sites, one of which was in North Dakota, one near the Grand River in South Dakota, and the third a few miles west of the Missouri River in South Dakota; that the said town sites were good lands but not near any line of railroad. The Hunkpapa chief, Gray Eagle, of the Bullhead district, for whom one of said town sites was named and who met me at McLaughlin, S. Dak., on Saturday, the 2d instant, with 22 delegates

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from the Bullhead and Grand River districts of the Standing Rock Reservation, with reference to the pending legislation, was greatly surprised when I informed him that there had been three town sites reserved on the reservation under the act of May 29, 1908, one of which towns was given his name.

Upon recent inquiry at the Indian Office regarding town sites on the Standing Rock Reservation, I learned that on September 29, 1909, there were three tracts of 160 acres each reserved for town sites under the act of May 29, 1908, viz, Gray Eagle, 160 acres; Crow King, 160 acres; and White Deer, 160 acres; that the lots therein had been offered for sale in September, 1910, with the result that not a bid was received on any of them.

There being several towns established along the lines of railroads running through the Standing Rock Reservation, and those three reserved Government town sites being located on desirable agricultural lands quite distant from any line of railroad and not likely to ever amount to anything as town sites, it is believed that the Indians would realize more from them if entered as agricultural lands under the provisions of the said act. Be that as it may, the Indians contend that the pending legislation should in no way involve the lands opened by the act of May 29, 1908, and, therefore, desire the elimination of section 11 from the pending bill.

The Indians expressed themselves as very much disappointed and greatly discouraged over not having received any cash payment from the proceeds of the sale of their lands opened to settlement by the act of May 29, 1908, and as the Indians fully expected such, and that they may be brought to accept the proposed opening of the remainder of their surplus lands more gracefully, I would respectfully recommend that at least one reasonable cash payment be made to them.

In conclusion, I desire to state that the Standing Rock Indians are well disposed and will acquiesce in any course pursued in the administration of their affairs, and notwithstanding their apparent opposition, as voiced by their chosen spokesmen, to the provisions of the pending bill, they will graciously accept whatever may be determined upon in this matter. Furthermore, having been intimately acquainted with the Standing Rock Indians for the past 30 years and believing that the opening of the surplus lands of their reservation will be beneficial to them as a people, as well as in the interests of the service, I respectfully recommend that legislation for the opening of their diminished reservation be enacted along the lines of Senate bill 109, Sixty-second Congress, first session, with the modifications herein suggested, and that at least one reasonable cash payment be made to them from the proceeds of their lands opened by the act of May 29, 1908.

I return herewith the copy of said Senate bill which was furnished me for submission to the interested Indians and upon which I have indicated by blue pencil marks the clauses most objectionable to the Indians, as above specifically set forth.

Very respectfully, your obedient servant,

JAMES MCLAUGHLIN, *Inspector.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 638.

INTERNATIONAL MARITIME CONFERENCE.

MAY 1, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. MOORE of Pennsylvania, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. J. Res. 299.]

The Committee on Foreign Affairs, to whom was referred H. J. Res. 299, proposing an international maritime conference, having considered the same in conjunction with H. J. Res. 303, authorizing and directing the Secretary of State to arrange an international conference for the protection of human life at sea, report H. J. Res. 299 to the House with certain amendments, with the recommendation that as amended it do pass.

The obvious purpose of both resolutions is to bring about an international conference of the maritime nations so that an agreement with regard to the operation of vessels at sea, for the better protection of life and property, may be effected. The shocking incidents of the *Titanic* disaster in midocean on the night of April 14 last and the morning following have not only horrified the civilized world, but have revealed an absence of precautionary measures and regulations in ocean transportation that apparently can be corrected only by international agreement. The United States by reason of boundary lines is limited in its jurisdiction, as necessarily is every other nation. The laws and regulations enacted by Congress, or upon its authority, fall short of control over many of the problems presented by the *Titanic* disaster, and there is reason to believe that some of the other great nations would welcome an international conference to discuss and, if possible, agree upon regulations affecting aids to navigation, life-saving devices, an ocean patrol, wireless telegraphy, the adoption of lane routes, and other measures.

Many of these are enumerated in H. J. Res. 299, and to them have been added, by way of amendment, certain other suggestions contained in H. J. Res. 303, so that as now reported H. J. Res. 299 not only specifies a variety of topics for consideration by an international conference, but leaves the field clear for the discussion of such other subjects as may occur to the international conferees because of the

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Titanic disaster or as a result of modern experience in shipbuilding and navigation.

It is believed that the passage of H. J. Res. 299, as amended and now favorably reported to the House, will meet with the approval of foreign maritime nations and will respond to the public demand in the United States for immediate action by Congress to provide, so far as it may have power to do so, the most efficient safeguards to human life on the high seas.

The passage of the resolution requesting the President to communicate the result of the preliminary correspondence to the present Congress will do much to allay the public feeling resulting from the *Titanic* horror in this and other countries. Moreover, it is evident that the increasing size of merchant vessels and the changed conditions in direction and management require early action on the part of the nations if they can be brought to an agreement for the protection of the officers and crews of trans-Atlantic vessels as well as for the cabin and steerage passengers. The prompt passage of the resolution will mean a forward step by the United States in a matter of great international concern.

AMENDMENTS.

On page 2, line 5, after the word "navigation," insert the following: "the establishment of a patrol system in the region of ice, or elsewhere, or of a system of convoys for ocean-going vessels, or of a relief station at Cape Race or elsewhere, or of lane routes to be followed by trans-Atlantic steamers."

In section 2, page 2, line 8, strike out the words "the next session of," and in the same line, after the word "Congress," insert "at the earliest possible time."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 642.

VALIDITY OF CERTAIN HOMESTEAD ENTRIES.

MAY 2, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PRAY, from the Committee on the Public Lands, submitted the following

REPORT.

[To accompany H. R. 21826.]

The Committee on the Public Lands having had under consideration the bill (H. R. 21826) validating certain homestead entries; report the same back with recommendation that it be amended by striking out all after the enacting clause and inserting the following in lieu thereof:

That all pending homestead entries made in good faith prior to September first, nineteen hundred and eleven, under the provisions of the enlarged homestead laws, by persons who, before making such enlarged homestead entry, had acquired title to a technical quarter section of land under the homestead law, and therefore were not qualified to make an enlarged homestead entry, be, and the same are hereby, validated, if in all other respects regular, in all cases where the original homestead entry was for less than one hundred and sixty acres of land.

The enlarged homestead law extends the benefits of the act to all "qualified homestead entrymen." A qualified homestead entryman is one who has not exhausted his rights under the homestead law; and in administering the enlarged homestead law the General Land Office held that anyone was entitled to the benefits of the act who had not secured an actual 160 acres under the homestead law; and under this construction, as shown by the letter of the Secretary of the Interior appended hereto, a number of entries were made in the Glasgow (Mont.) and other land districts.

In a decision rendered July 18, 1911, by the Secretary of the Interior, it was held in substance that one who had secured under the homestead law a technical quarter section; that is, four fortys of land, was not a qualified homestead entryman under the enlarged homestead law, even though the land he had secured was less than 160 acres.

This bill proposes to cure the comparatively few cases which are adversely affected by the decision of the department without making

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any attempt to overturn the decision as to future entries, it being the opinion of the committee that the decision is not antagonistic to the spirit of the enlarged homestead law.

DEPARTMENT OF THE INTERIOR,
Washington, March 8, 1912.

Hon. CHARLES N. PRAY,
House of Representatives.

MY DEAR MR. PRAY: I have the honor to acknowledge receipt of your letter of February 27, 1912, inclosing a petition to Congress, signed by Mr. Birt Warren and three other petitioners, of Plentywood, Mont., and argument in support thereof by Mr. J. J. Gunther, an attorney of the same place.

Pursuant to Mr. Gunther's request, you ask that this department express its views on the subject of the petition, namely, the validation of certain entries under the enlarged homestead act, heretofore held to be illegal; he also suggests that the department may be induced to revoke its decision on the class of entries referred to.

The enlarged homestead acts of February 19, 1909 (35 Stat., 639), and June 17, 1910 (the Idaho act, 36 Stat., 531), provide "That any person who is a qualified entryman under the homestead laws of the United States may enter * * * under the provisions of this act," etc. Under section 6 of the act of March 2, 1889 (25 Stat., 854), a person who has made proof and received the final receiver's receipt, in connection with a homestead entry for less than 160 acres, is entitled to make homestead entry for enough additional land to make up a total of 160 acres. In view of said statutory provision, the General Land Office had, in answer to inquiries, expressed the opinion that a person whose first perfected entry contained less than 160 acres, no matter how small the deficit, was "a qualified entryman" within the meaning of the enlarged homestead acts, and was therefore entitled to make an entry for the full area of 320 acres. Under this view of the law, sundry persons in the Glasgow, Mont., district, as well as other districts, were allowed to make entries as indicated. The question of the validity of such entries came before the department in the case of Saavi Storaasli, and on July 18, 1911, it was held (syllabus):

"The right to make enlarged homestead entry under section 1 of the act of February 19, 1909, is confined to persons qualified to make entry under the homestead laws of the United States, and one who acquired title under the general homestead law to a technical quarter section, even though containing slightly less than 160 acres, is not entitled to make entry under section 1 of the enlarged homestead act."

This department considered the question very fully before rendering the decision on this point and sees no reason at this time for receding from its opinion. However, in view of the fact that quite a number of entries were placed of record under the erroneous ruling of the General Land Office, the department would not offer objection to the enactment of legislation validating such entries now pending, allowed prior to notice of the Storaasli decision at the various local land offices (say Sept. 1, 1911), where no other objection is found to the legality of the entries.

Your inclosures are returned.

Very respectfully, SAMUEL ADAMS, *Acting Secretary.*

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 645.

FREE AND EFFICIENT SEAMEN.

MAY 2, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. WILSON of Pennsylvania, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 23673.]

The Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 23673) to abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in the ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen, submits the following report, and recommends that the bill do pass with the following amendments:

Page 11, line 1, after the word "master," strike out the word "of" and insert the word "or."

Page 17, strike out all of lines 8 and 9 and the words "or of the preceding" in line 11.

Page 17, line 17, strike out the figures "16" and insert the figures "15."

Page 18, line 13, strike out the figures "17" and insert the figures "16."

The bill as amended will read as follows:

A BILL To abolish the involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports and the involuntary servitude imposed upon the seamen of the merchant marine of foreign countries while in ports of the United States, to prevent unskilled manning of American vessels, to encourage the training of boys in the American merchant marine, for the further protection of life at sea, and to amend the laws relative to seamen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-five hundred and sixteen of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4516. In case of desertion or casualty resulting in the loss of one or more of the seamen, the master must ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same or higher grade or rating with those whose places they fill, and report the same to the United States consul at the first port at which he shall arrive, without incurring the penalty prescribed by the two preceding sections. And in all merchant vessels

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of the United States the sailors shall, while at sea, be divided into at least two and the firemen into three watches, which shall be kept on duty alternately for the performance of ordinary work incident to the sailing and management of the vessel; but this provision shall not limit either the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, the whole crew is needed for the maneuvering of the vessel or the performance of work necessary for the safety of the vessel or her cargo. While the vessel is in a safe harbor no seaman shall be required to do any unnecessary work on Sundays or legal holidays, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage; and at all other times while the vessel is in a safe harbor nine hours, inclusive of anchor watch, shall constitute a day's work. Whenever the master of any vessel shall fail to comply with this section the seamen shall be entitled to discharge from such vessel and shall, upon demand, receive wages then earned. But this section shall not apply to fishing or whaling vessels or yachts."

SEC. 2. That section forty-five hundred and twenty-nine of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4529. The master or owner of any vessel making coasting voyages shall pay to every seaman his wages within two days after the termination of the agreement under which he was shipped, or at the time such seamen is discharged, whichever first happens; and in case of vessels making foreign voyages, or from a port on the Atlantic to a port on the Pacific, or vice versa, within twenty-four hours after the cargo has been discharged, or within four days after the seaman has been discharged, whichever first happens; and in all cases the seaman shall be entitled to be paid at the time of his discharge on account of wages a sum equal to one-third part of the balance due him. Every master or owner who refuses or neglects to make payment in the manner hereinbefore mentioned without sufficient cause shall pay to the seaman a sum equal to two days' pay for each and every day during which payment is delayed beyond the respective periods, which sum shall be recoverable as wages in any claim made before the court; but this section shall not apply to masters or owners of any vessel the seamen of which are entitled to share in the profits of the cruise or voyage."

SEC. 3. That section forty-five hundred and thirty of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4530. Every seaman on a vessel of the United States shall be entitled to receive, within forty-eight hours after demand therefor, from the master of the vessel to which he belongs, one-half part of the wages which shall be due him at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended; and all stipulations to the contrary shall be held as void. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall then be due him, as provided in section forty-five hundred and twenty-nine of the Revised Statutes: *Provided*, That notwithstanding any release signed by any seaman under section forty-five hundred and fifty-two of the Revised Statutes any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: *Provided further*, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement."

SEC. 4. That section forty-five hundred and fifty-nine of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4559. Upon a complaint in writing, signed by the first and second officers or a majority of the crew of any vessel, while in a foreign port, that such vessel is in an unsuitable condition to go to sea because she is leaky or insufficiently supplied with sails, rigging, anchors, or any other equipment, or that the crew is insufficient to man her, or that her provisions, stores, and supplies are not or have not been during the voyage sufficient or wholesome, thereupon, in any of these or like cases, the consular or a commercial agent who may discharge any of the duties of a consul shall cause to be appointed three persons of like qualifications with those described in section forty-five hundred and fifty-seven, who shall proceed to examine into the cause of complaint and who shall proceed and be governed in all their proceedings as provided by said section."

SEC. 5. That section two of the act entitled "An act to amend the laws relating to navigation," approved March third, eighteen hundred and ninety-seven, be, and is hereby, amended to read as follows:

"SEC. 2. That on all merchant vessels of the United States the construction of which shall be begun after the passage of this act, except yachts, pilot boats, or vessels of less than one hundred tons register, every place appropriated to the crew of the vessel shall have a space of not less than one hundred cubic feet and not less than sixteen square feet, measured on the floor or deck of that place, for each seaman or apprentice lodged therein; such place or lodging shall be securely constructed, properly lighted.

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drained, heated, and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from the effluvium of cargo or bilge water. And every such crew space shall be kept free from goods or stores not being the personal property of the crew occupying said place in use during the voyage.

"Every steamboat of the United States plying upon the Mississippi River or its tributaries shall furnish an appropriate place for the crew, which shall conform to the requirements of this section, so far as they are applicable thereto, by providing sleeping room in the engine room of such steamboat, properly protected from the cold, wind, and rain by means of suitable awnings or screens on either side of the guards or sides and forward, reaching from the boiler deck to the lower or main deck, under the direction and approval of the Supervising Inspector General of Steam Vessels, and shall be properly heated.

"All merchant vessels of the United States the construction of which shall be begun after the passage of this act having more than twenty men on deck must have at least one light, clean, washing place. There shall be provided at least one washing outfit for every two men of the watch. The washing place shall be properly heated. A separate washing place shall be provided for the fireroom and engine-room men, if their number exceed ten, which shall be large enough to accommodate at least one-sixth of them at the same time, and have hot and cold water supply and a sufficient number of washtubs, sinks, and shower baths.

"Any failure to comply with this section shall subject the owner or owners to a penalty of five hundred dollars."

SEC. 6. That section forty-five hundred and ninety-six of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4596. Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offenses he shall be punished as follows:

"First. For desertion, by forfeiture of all or any part of the clothes or effects he leaves on board and of all or any part of the wages or emoluments which he has then earned.

"Second. For neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two days' pay or sufficient to defray any expenses which shall have been properly incurred in hiring a substitute.

"Third. For quitting the vessel, without leave, after her arrival at the port of her delivery and before she is placed in security, by forfeiture from his wages of not more than one month's pay.

"Fourth. For willful disobedience to any lawful command at sea, by being, at the option of the master, placed in irons until such disobedience shall cease, and upon arrival in port by forfeiture from his wages of not more than four days' pay, or, at the discretion of the court, by imprisonment for not more than one month.

"Fifth. For continued willful disobedience to lawful command or continued willful neglect of duty at sea, by being, at the option of the master, placed in irons, on bread and water, with full rations every fifth day, until such disobedience shall cease, and upon arrival in port by forfeiture for every twenty-four hours' continuance of such disobedience or neglect, of a sum of not more than twelve days' pay, or by imprisonment for not more than three months, at the discretion of the court.

"Sixth. For assaulting any master or mate, by imprisonment of not more than two years.

"Seventh. For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, by imprisonment of not more than twelve months.

"Eighth. For any act of smuggling for which he is convicted and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability, and he shall be liable to imprisonment for a period of not more than twelve months."

SEC. 7. That section forty-six hundred of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4600. It shall be the duty of all consular officers to discountenance insubordination by every means in their power, and, where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner. In all cases where seamen or officers are accused, the consular officer shall inquire into the facts and proceed as provided in section forty-five hundred

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and eighty-three of the Revised Statutes; and the officer discharging such seaman shall enter upon the crew list and shipping articles and official log the cause of such discharge and the particulars in which the cruel or unusual treatment consisted, and subscribe his name thereto officially. He shall read the entry made in the official log to the master, and his reply thereto, if any, shall likewise be entered and subscribed in the same manner."

SEC. 8. That section forty-six hundred and eleven of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4611. Flogging and all other forms of corporal punishment are hereby prohibited on board of any vessel, and no form of corporal punishment on board of any vessel shall be deemed justifiable, and any master or other officer thereof who shall violate the aforesaid provisions of this section, or either thereof, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not less than three months nor more than two years. Whenever any officer other than the master of such vessel shall violate any provision of this section it shall be the duty of such master to surrender such officer to the proper authorities as soon as practicable. Any failure on the part of such master to comply herewith, which failure shall result in the escape of such officer, shall render the master or the vessel liable in damages for such punishment to the person illegally punished by such officer."

SEC. 9. That section twenty-three of the act entitled "An act to amend the laws relating to American seamen, for the protection of such seamen, and to promote commerce," approved December twenty-first, eighteen hundred and ninety-eight, be, and is hereby, amended as regards the items of water and butter, so that in lieu of a daily requirement of four quarts of water there shall be a requirement of five quarts of water every day, and in lieu of a daily requirement of one ounce of butter there shall be a requirement of two ounces of butter every day.

SEC. 10. That section twenty-four of the act entitled "An act to amend the laws relating to American seamen, for the protection of such seamen, and to promote commerce," approved December twenty-first, eighteen hundred and ninety-eight, be, and is hereby, amended to read as follows:

"SEC. 24. That section ten of chapter one hundred and twenty-one of the laws of eighteen hundred and eighty-four, as amended by section three of chapter four hundred and twenty-one of the laws of eighteen hundred and eighty-six, be, and is hereby, amended to read as follows:

"'SEC. 10 (a). That it shall be, and is hereby, made unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order or note or any other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted fron a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment shall in no case, except as herein provided, absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than five hundred dollars.

"'(b) That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages he may earn to his grandparents, parents, wife, sister, or children.

"'(c) That no allotment shall be valid unless signed by and approved by the shipping commissioner. It shall be the duty of the said commissioner to examine such allotments and the parties to them and enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made.

"'(d) That no allotment except as provided for in this section shall be lawful. Any person who shall falsely claim to be such relation, as above described, of a seaman under this section shall for every such offense be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding six months, at the discretion of the court.

"'(e) That this section shall apply as well to foreign vessels as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who

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has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

"'The master, owner, consignee, or agent of any foreign vessel seeking clearance from a port of the United States shall present his shipping articles at the office of clearance and no clearance shall be granted any such vessel unless the provisions of this section have been complied with.

"'(f) That under the direction of the Secretary of Commerce and Labor the Commissioner of Navigation shall make regulations to carry out this section.'"

SEC. 11. That section forty-five hundred and thirty-six of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4536. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court, and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of wages or of any attachment, encumbrance, or arrestment thereon; and no assignment or sale of wages or of salvage made prior to the accuring thereof shall bind the party making the same, except such allotments as are authorized by this title. This section shall apply to fishermen employed on fishing vessels as well as to other seamen."

SEC. 12. That no vessel, except those navigating rivers exclusively and except as provided in section one of this act, shall be permitted to depart from any port of the United States unless she has on board a crew not less than seventy-five per centum of which, in each department thereof, are able to understand any order given by the officers of such vessel, nor unless forty per centum in the first year, forty-five per centum in the second year, fifty per centum in the third year, fifty-five per centum in the fourth year after the passage of this act, and thereafter sixty-five per centum of her deck crew, exclusive of licensed officers, are of a rating not less than able seaman: *Provided*, That no vessel carrying passengers, except those navigating rivers and harbors exclusively, shall be permitted to depart from any port of the United States unless she shall have a sufficient crew to man each lifeboat with not less than two men of the rating of able seaman or higher.

No person shall be rated as an able seaman unless he is nineteen years of age or upward and has had at least three years' service on deck at sea or on the Great Lakes. Any person may make application to any board of local inspectors for a certificate of service as able seaman, and upon proof being made to said board by affidavit, under rule approved by the Secretary of Commerce and Labor, showing the nationality of the applicant and the vessel or vessels on which he has had service and that he has had at least three years' service on deck at sea or on the Great Lakes, the board of local inspectors shall issue to said applicant a certificate of service, which shall be retained by him and be accepted as prima facie evidence of his rating as an able seaman.

Each board of local inspectors shall keep a complete record of all certificates of service issued by them and to whom issued and shall keep on file the affidavits upon which said certificates are issued.

The collector of customs may, upon his own motion, and shall, upon the sworn information of any citizen of the United States setting forth that this section is not being complied with, cause a muster of the crew of any vessel to be made to determine the fact; and no clearance shall be given to any vessel failing to comply with the provisions of this section.

SEC. 13. That every sailing or steam vessel shall carry in her crew a boy or boys, native of the United States, or one whose father or mother is a naturalized citizen of the United States, as follows: If she be three hundred registered tons or more, but less than one thousand five hundred register tons, at least one boy; if she be one thousand five hundred tons register or more, at least two boys or apprentices. Any vessel leaving any port of the United States without the boy or boys required by this section shall be liable to a penalty of one hundred dollars for each offense: *Provided*, That this penalty shall not apply if, after reasonable diligence, the boy or boys required by this section could not be obtained.

SEC. 14. That towing of more than one barge or other vessel fifty miles or more through the open sea is hereby prohibited, unless such barges or vessels so towed are provided with sail or other motive power and a crew sufficient to manage such barges or vessels.

Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding two thousand five hundred dollars nor less then five hundred dollars, or by imprisonment for not less than ninety days nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

SEC. 15. That section fifty-two hundred and eighty of the Revised Statutes of the United States be, and is hereby, repealed, and that section four thousand and eighty-one be amended by adding at the end thereof the following proviso: *Provided*, That this section and the foregoing sections, four thousand and seventy-nine and four thousand

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and eighty, shall in no case be held or construed to require or authorize the arrest, imprisonment, or delivering up of any deserter or deserting seaman to the vessel from which he has deserted, unless the application in writing required thereby shall allege, and on examination it be made to appear, that such deserter or deserting seaman has been guilty on board of such vessel of some act or omission which is a criminal offense under the laws of the foreign nation to which such vessel belongs, other than having withdrawn, or being about to withdraw, himself from the control and discipline of the master and officers of the vessel. That all treaties in conflict with this act be, and are hereby, abrogated, and the President of the United States is required at once to so notify every nation having any such treaty.

SEC. 16. That this act shall take effect, as to all vessels of the United States, ninety days after its passage, and as to foreign vessels twelve months after its passage, save and except that such parts hereof as provide for the abrogation of any stipulation by treaty or convention with any foreign nation shall only take effect after such notice and at the expiration of such time as may be required by the terms of such treaty, stipulation, or convention.

The recent terrible disaster to the steamship *Titanic* by which many hundreds of lives were lost has attracted universal attention to the necessity for stricter laws and regulations in order to promote the safety of passengers and crews at sea. Several additions to our laws are needed in order to accomplish that purpose. Among these are a sufficient number of lifeboats, rafts, and appliances to carry, at one time, all of the passengers and crew which any vessel may carry or be licensed to carry; a regulation of the systems of wireless telegraphy to the end that proper communication may at all times be maintained; a sufficient number of officers to properly navigate the vessel and handle the crew; and a crew with sufficient knowledge of the language of the officers to be able to understand their orders and skill enough to obey those orders when given.

The committee has reported three bills dealing with these subjects: One bill dealing with lifeboats and wireless telegraphy; another bill providing a manning scale for officers; and this bill, which proposes to extend the operation of the thirteenth amendment to seamen, provide a manning scale and establish a standard of efficiency based upon experience. In the judgment of your committee this bill will be more far-reaching than any measure now pending in Congress. There is no other portion of our citizens or residents who can be compelled, under penalty of imprisonment, to fulfill a civil contract to labor. The seamen alone remain as the last remnant of serfdom. The seaman may be, and is, compelled to sign a contract to labor before he can secure employment, and to fulfill such contract after he has signed it, and the inevitable result has followed, that the self-respecting man or boy prefers employment on land to that of employment at sea, and only those accept a seafaring life who by propinquity or necessity are compelled to do so.

It is needless in this age to argue for the right of men to be free. It is an established fact in our fundamental law and should be applied to seamen as well as others. You can not control man's labor without controlling the man himself. If he is to be free, he must have the right to labor or not, as best suits his own judgment or convenience. Labor power is a part of man; it is generated within him and can only be exercised and utilized through his brain power and will. To compel him to use it against his will is to make him to all intents and purposes a slave.

This bill relieves him from that condition. By relieving the seaman from any criminal proceedings for violating a contract to labor, leaving only the civil process as a remedy, you place him exactly in the same

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position as other workmen, and the result will be to gradually improve the standard of the men who go down to the sea, not only of those in our own shipping, but of those in all ships entering our ports, until it has reached the same standard as that of workmen on land.

Two things are essential to the building up of our merchant marine; one is the creating of a condition where the initial cost of the vessel is as low as that of the foreign vessel and the other is an equalization of the operating expenses.

This bill will tend to equalize the operating expenses. Under existing laws men may be and are employed at the ports where the lowest standard of living and wages obtain. The wages in foreign ports are lower than they are in the ports of the United States; hence the operating expenses of a foreign vessel are lower than the operating expenses of an American vessel. It is not proposed to prevent vessels from employing seamen in ports where they can secure them cheapest, but it is proposed by this bill to give the seamen the right to leave the ship when in a safe harbor, and in time this will result in foreign seamen engaged on vessels coming into ports of the United States being paid the same wages as obtain here, as a means of retaining their crews for the return voyage. That will equalize the cost of operation, so that vessels of the United States will not be placed at a disadvantage.

The bill further provides for a standard of efficiency based upon three years' service at sea or on the Great Lakes. It is well to provide for sufficient equipment in the form of lifeboats to take care of all of the passengers and crew in the event of accident at sea, but it is practically useless to provide such equipment unless you at the same time provide a sufficient number of men with a sufficient amount of skill and experience to handle the lifeboats when needed.

The present law provides no standard of efficiency and leaves the question of the number of seamen entirely to the discretion of the local board of inspectors. When you take into consideration the immense interests involved in our shipping and the vast number of people whose safety is at stake, it will be readily realized what a great burden of responsibility is placed upon the shoulders of these inspectors when you leave them to decide this question without any standard as a guide. Human nature is the same with people in all walks of life, and inspectors would be different from the average human being if they were not more or less influenced by their associations and surroundings. It would be a protection to them, a protection to the traveling public and to the ship and cargo to have the standard of efficiency and a manning scale established as provided in this bill.

Section 1 of this bill amends the present law by regulating the hours of labor at sea by dividing the sailors into at least two, and the firemen into three, watches—this is the statute law of France and Germany; it is the custom in England and custom protected by law in Norway—and in port by establishing a nine-hour day, except on Sundays and legal holidays, when no unnecessary work shall be required. This is, in substance, the laws of France, Germany, and Norway.

Section 2 amends the present law by increasing the penalty for its violations.

Section 3 amends present law by striking out the following: "unless the contrary be expressly stipulated in the contract" and inserting

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in its place as follows: "and all stipulations to the contrary shall be held as void." The section thus amended gives the seaman the right to demand one-half the wages due him in any port, notwithstanding any contract to the contrary, and extends its application to seamen on foreign vessels while in American harbors, and the whole section becomes part of the means by which the cost of operation of all vessels taking cargo out of any American port may be equalized.

Section 4 amends existing law so as to give a majority of the seamen the right to demand a survey of the vessel while in a foreign port to determine its seaworthiness. That is the existing law relative to vessels engaged in the domestic trade.

Section 5 amends existing law by striking out "not less than seventy-two cubic feet and not less than twelve square feet" and inserting "not less than one hundred cubic feet and not less than sixteen square feet" as forecastle space allotted for each member of the crew and by providing opportunity for cleanliness. The laws of England, France, Germany, and Norway require 120 cubic feet of forecastle space for each member of the crew.

Section 6 amends existing law so as to give the seaman the same freedom as landsmen when his vessel is in a safe harbor and to enforce proper discipline while at sea.

Section 7 amends existing law by striking out the words "reclaim deserters."

Section 8 amends existing law relative to corporal punishment by enabling the seaman who has been thus punished to sue the vessel for damages if the master permits the officer guilty of the violation to escape.

Section 9 amends existing law by prohibiting advances and allotment of wages except to near relatives of the seaman. This would destroy the power of the crimps.

Section 11 amends existing law by extending to fishermen on deep-sea fishing vessels the provision which prohibits the attachment of a seaman's wages.

Section 12 is new to American maritime law. It proposes a standard of skill in the able seaman of three years service on deck at sea or on the Great Lakes in 40 per cent of the deck crew, exclusive of licensed officers, in the first year after the passage of this act and gradually increases the number of able seamen required until it reaches 65 per cent in five years after the passage of the act.

It also provides that no vessel shall be permitted to leave any port of the United States unless she has a crew on board not less than 75 per cent of which, in each department thereof, are able to understand any order given by the officer of such vessel.

Passenger vessels are not permitted to depart unless they shall have a sufficient crew to man each lifeboat with not less than two men with the rating of able seaman or higher. The enactment of this section is absolutely essential to promote the safety of travel at sea.

Section 13 is new law and provides means by which American boys may be trained to a seafaring life.

Section 14 is new and seeks to stop wanton waste of life and property inseparable from the present system of towing barges.

Section 15 provides for the repeal of existing law relative to the arrest, imprisonment, or delivering up of deserting seamen to the

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vessels from which they deserted and for the abrogation of all treaties in conflict with the provisions of the act.

Section 16 provides the dates upon which the bill shall go into effect.

The following countries now have treaties with the United States mutually providing for the arrest and delivery of deserters from ships: Austria, Belgium, Bolivia, Brazil, Colombia, Denmark, France, Germany, Greece, Haiti, Italy, Japan, Kongo, Mecklenburg-Schwerin, Netherlands, Prussia, Spain, Sweden, Norway, Tonga, Great Britain. The treaties with these countries would be affected by this bill.

In 1894 the British Board of Trade appointed a commission to inquire into "manning of British merchant ships." The commission made a very exhaustive investigation of the subject matter submitted to it, upon which it based 42 specific recommendations, among which were the following:

That a candidate for the rating of A. B. (able seaman) should be 19 years of age or over, and have had three years' service at sea as a deck hand.

That no man should be permitted to be employed as an A. B. (able seaman) who can not prove his title to that rating.

That foreigners who are candidates for the rating of A. B. (able seaman) or O. S. (ordinary seaman) should be required to show the appropriate sea service and to have an adequate knowledge of the English language.

The Norwegian commission made a practically similar report in 1909.

The laws of New Zealand provide a specific manning scale equal to that provided in this bill, and the Government of the Commonwealth of Australia has introduced a similar measure which will undoubtedly become a law by virtue of its being a Government measure.

The following statement gives the laws of various countries relative to the hours of labor, Sunday labor, and preservation of discipline, each of which subjects is dealt with in this bill:

Nation.	Hours of labor.	Sunday labor.	Preservation of discipline.
Germany.....	In harbors or roadsteads, 10 hours daily; 8 hours in the Tropics. Time employed in watching to be reckoned as working time.	No labor permitted on Sundays or holidays, except for safety or dispatch of ships. Holidays of the locality or home port must be kept in port or at sea.	Increased hours of service, additional labor, restriction of diet, and deprivation of leave may be imposed for infractions of discipline. Fines, lowering of diet for more than three days, incarceration, and corporal punishment may neither be inflicted nor threatened.
Denmark.....	No law on the subject.....	No law on the subject.....	Shipmaster may impose fines for infractions of discipline, which must not exceed one-half of the seaman's earnings. Seamen deserting from ship while indebted may be criminally prosecuted.
Norway.....	Working hours must not exceed 18 out of 24. Time needed for meals is included in working time. Time occupied on watch in port is considered working time, to be compensated by an allowance of equal time during the day or by payment at the rate of 25 ore per hour.	Only work necessary for safety of ship permitted on Sundays and holidays. Same provision applies to watch below.	

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Nation.	Hours of labor.	Sunday labor.	Preservation of discipline.
Sweden	No special regulations	No work permitted on Sundays or holidays except such as can not be postponed.	Corporal punishment prohibited. Seamen may be fined for infractions of discipline, such fines to be paid into Seamen's Home fund. Deserters' unpaid wages and effects forfeited to shipowners. Punishment for desertion, from 3 months' to 1 year's imprisonment.
Austria	No special regulations on the subject.	No special regulations on the subject.	Fines provided for infraction of discipline. Desertion punishable by imprisonment. Deserters' wages forfeited to Marine Benevolent fund. Seamen and officers forbidden to appeal to authorities in foreign ports.
Italy	See under "Sunday labor"	Regulations vary according to private rules of shipowners and regulations of the port. Proposals made to fix length of workday and provide payment for work performed on Sundays, holidays, and overtime on week days.	Fines provided for infractions of discipline, also confinement to ship, double watch, and stoppage of ration of wine or other fermented liquor. Desertion punishable by from 3 to 6 months' imprisonment in a home port, and from 6 to 12 months' imprisonment in a foreign port. Penalties for desertion generally recognized as excessive.
Greece	Subject to special agreement.	Subject to special agreement.	Infractions of discipline punishable by reprimand, limitation to bread and water, and locking up from 1 to 3 days. Seamen absenting themselves for 3 days are considered deserters.
United States.	No law on the subject	No law on the subject	Imprisonment not exceeding 1 month for desertion and recapture and compulsory labor in foreign countries.
Russia	No law on the subject. As a rule, the workday is limited to 10 hours.	Sunday labor not compulsory, except in cases of absolute necessity.	Disobedience may be punished corporally, by not exceeding 5 lashes with a whip. Other offenses may be punished by imprisonment varying from 7 days to 3 months.
Spain	No law on the subject	No law on the subject. Permit to work on Sunday is usually granted by the ecclesiastical authority of the port.	No law on the subject.
Japan	do	No law on the subject	Infractions of discipline punishable by fines and imprisonment. Confinement must not exceed 3 days; stoppage of shore leave must not exceed 7 days; decrease of pay must not exceed one-tenth of the monthly wages.
Netherlands	do	do	Infractions of discipline may be punished by stoppage of pay for not to exceed 30 days, and by confinement in irons in aggravated cases.
France	No law on the subject. Proposed legislation under consideration. Watch and watch at sea. Ten hours in port.	No law on the subject. Proposed legislation under consideration. Sunday labor forbidden except when needed for safety.	Infractions of discipline are punishable by fines and imprisonment. Use of irons prohibited. Single or double handcuffs permitted only upon exceptional occasions.
Great Britain.	No law, but some regulations relating to manning.	No law on the subject	Imprisonment for desertion in foreign ports. Under treaties, recapture and compulsory labor in foreign ports; in certain cases also in home ports.

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STATION BILLS SHOWING HOW BOATS ARE MANNED IN CASE OF DISASTER, WHO ARE IN CHARGE, AND THE NUMBER OF SEAMEN IN EACH BOAT UNDER PRESENT REGULATIONS.

PACIFIC COAST STEAMSHIP CO. BOAT STATIONS—STEAMSHIP "GOVERNOR."

Boat No. 1.—Located: Boat deck, starboard side; captain in command; No. 1 quartermaster, No. 3 oiler, No. 1 seaman, No. 1 stewardess, No. 64 waiter, No. 77 waiter, No. 2 fireman, No. 26 fireman, No. 1 deck boy, wireless, No. 86 fireman.

Boat No. 2.—Located: Boat deck, port side; first officer in command; No. 2 quartermaster, No. 4 oiler, No. 2 seaman, No. 2 stewardess, No. 2 deck boy, No. 4 fireman, No. 28 fireman, No. 66 waiter, No. 78 waiter, chair boy, No. 1 musician.

Boat No. 3.—Located: Boat deck, starboard side; second officer in command; third assistant engineer, second steward, No. 5 oiler, No. 1 officers' mess boy, No. 3 seaman, No. 85 bell boy, No. 67 waiter, No. 80 waiter, No. 6 fireman, No. 28 fireman, No. 88 waiter.

Boat No. 4.—Located: Boat deck, port side; first assistant engineer in command; No. 1 junior engineer, first freight clerk, No. 6 oiler, No. 2 officers' mess boy, No. 4 seaman, No. 86 bell boy, No. 68 waiter, No. 8 fireman, No. 81 waiter, No. 32 coal passer.

Boat No. 5.—Located: Boat deck, starboard side; chief steward in command; second junior engineer, second freight clerk, first butcher, sailors' mess boy, No. 5 seaman, No. 2 musician, No. 69 waiter, No. 10 fireman, No. 82 waiter, No. 34 coal passer.

Boat No. 6.—Located: Boat deck, port side; chief engineer in command; third junior engineer, second cabin steward, second butcher, No. 1 firemen's mess boy, No. 6 seaman, No. 70 waiter, No. 12 fireman, No. 83 waiter, No. 36 coal passer, No. 84 bell boy.

Boat No. 7.—Located: Boat deck, starboard side; boatswain in command; deck engineer, bartender, first baker, No. 2 firemen's mess boy, No. 7 seaman, No. 79 scullery man, No. 71 waiter, No. 14 fireman, No. 38 coal passer, No. 44 coal passer, No. 87 bell boy.

Boat No. 8.—Located: Boat deck, port side; carpenter in command; No. 1 water tender, storekeeper, second baker, No. 8 seaman, No. 89 scullery man, saloon watchman, No. 72 waiter, No. 16 fireman, No. 40 coal passer, No. 46 coal passer.

Boat No. 9.—Located: Boat deck, starboard side; purser in command; No. 2 water tender, chief cook, third baker, No. 9 seaman, No. 60 waiter, No. 73 waiter, No. 18 fireman, No. 42 coal passer, No. 48 coal passer, No. 4 deck boy.

Boat No. 10.—Located: Boat deck, port side; second assistant engineer in command; No. 3 water tender, second cook, first pantryman, No. 10 seaman, No. 61 waiter, No. 74 waiter, No. 84 waiter, No. 20 fireman, No. 60 coal passer, No. 51 coal passer.

Boat No. 11.—Located: Shade deck, starboard side; third officer in command; No. 3 quartermaster, No. 1 oiler, third cook, second pantryman, No. 11 seaman, No. 3 deck boy, No. 62 waiter, No. 75 waiter, No. 22 fireman, No. 52 coal passer, No. 65 waiter, No. 58 coal passer.

Boat No. 12.—Located: Shade deck, port side; fourth officer in command; No. 4 quartermaster, No. 2 oiler, fourth cook, third pantryman, deck watchman, No. 5 deck boy, No. 63 waiter, No. 76 waiter, No. 90 waiter, No. 94 waiter, No. 54 fireman.

MANNING OF BOATS ON ATLANTIC COAST.

CREW STATIONS OF THE STEAMER "GOVERNOR DINGLEY."

[Certified to carry 1,200 passengers.]

Boat No. 1.—Captain in charge, sailor No. 1 (coxswain), deckhand No. 11, deckhand No. 12, deckhand No. 13.

Boat No. 2.—First pilot in charge, sailor No. 2 (coxswain), deckhand No. 14, deckhand No. 15, deckhand No. 16, deckhand No. 17.

Boat No. 3.—Second pilot in charge, sailor No. 3 (coxswain), deckhand No. 18, deckhand No. 19.

Boat No. 4.—First officer in charge, sailor No. 4 (coxswain), sailor No. 9, deckhand No. 22, deckhand No. 23, deckhand No. 25.

Boat No. 5.—Second officer in charge, sailor No. 5 (coxswain), deckhand No. 26, deckhand No. 27, deckhand No. 28, deckhand No. 29.

Boat No. 6.—Chief engineer in charge, oiler (coxswain), fireman No. 34, fireman No. 35, fireman No. 36, fireman No. 37.

Boat No. 7.—First assistant engineer in charge, oiler (coxswain), fireman No. 38, fireman No. 39, fireman No. 40, fireman No. 41.

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Boat No. 8.—Second assistant engineer in charge, oiler (coxswain), fireman No. 42, fireman No. 43, fireman No. 44, fireman No. 45.

Boat No. 9.—Boatswain in charge, sailor No. 6 (coxswain), deckhand No. 30, deckhand No. 31, deckhand No. 32, deckhand No. 33.

Boat No. 10.—Quartermaster in charge, sailor No. 7 (coxswain), waiter No. 46, waiter No. 47, waiter No. 48, waiter No. 49.

Raft No. 1.—Quartermaster in charge, sailor No. 8 (coxswain), waiter No. 50, waiter No. 51, waiter No. 52, waiter No. 53.

Raft No. 2.—Steward in charge, pantryman (coxswain), waiter No. 54, waiter No. 55, waiter No. 56, waiter No. 57.

Raft No. 3.—Second steward in charge, waiter No. 58, waiter No. 59, waiter No. 60, waiter No. 61, waiter No. 62.

Raft No. 4.—Watchman in charge, waiter No. 63, waiter No. 64, waiter No. 65, waiter No. 66, waiter No. 67.

Raft No. 5.—Watchman in charge, waiter No. 68, waiter No. 69, waiter No. 70, waiter No. 71, waiter No. 24.

It will be observed that in many of these boats no seamen are provided to man them. It would seem to be a very unsafe condition to have the lives of passengers and crew in these lifeboats dependent upon the work of men lacking in skill and experience in the handling of them. The bill proposes to remedy that condition by providing at least two skilled men for the handling of each of the lifeboats, which is the smallest number which can give any reasonable assurance of safety.

The following table, taken from the report of the Life-Saving Service for the fiscal year ending June 30, 1910, gives the number of vessels and lives lost during that year:

LOSS OF LIFE.

Summary of table, showing wrecks and other marine casualties involving loss of life on and near the coasts and on the rivers of the United States, and including such disasters to American vessels at sea and in foreign waters, during the fiscal year ending June 30, 1910.

Coasts and nature of casualties.	Vessels.	Tonnage.	Passengers.	Crews.	Lives lost.
Atlantic and Gulf coasts:					
Founderings	13	7,120	20	65	55
Strandings	7	3,998	1	59	42
Vessels in collision	8	2,422	950	49	12
Other causes	40	16,847	1,188	442	44
Total	68	30,387	2,159	615	153
Pacific coast:					
Founderings	.....	.....	.....	.....	.....
Strandings	6	1,645	12	51	33
Vessels in collision	1	9	4	2	1
Other causes	19	9,755	632	258	27
Total	26	11,409	648	311	61
Great Lakes:					
Founderings	2	6,332	1	49	36
Strandings	2	6,636	.....	40	7
Vessels in collision	5	9,863	.....	54	37
Other causes	38	98,077	383	560	52
Total	47	120,908	384	703	132
Rivers:					
Founderings	1	530	.....	4	1
Strandings	1	372	27	39	12
Vessels in collision	4	.....	.....	6	6
Other causes	69	17,244	3,666	1,218	73
Total	75	18,146	3,693	1,267	92

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Summary of table, showing wrecks and other marine casualties involving loss of life on and near the coasts and on the rivers of the United States, and including such disasters to American vessels at sea and in foreign waters, during the fiscal year ending June 30, 1910—Continued.

Coasts and nature of casualties.	Vessels.	Tonnage.	Passengers.	Crews.	Lives lost.
At sea and in foreign waters:					
Founderings	2	707	.....	25	13
Strandings	1	3,488	131	88	4
Vessels in collision	.....	.....	.....	.....	.....
Other causes	43	22,866	66	532	138
Total	46	27,061	197	645	155
Recapitulation by nature of casualties:					
Founderings	18	14,689	21	143	105
Strandings	17	16,139	171	277	98
Vessels in collision	18	12,294	954	111	56
Other causes	209	164,789	5,935	3,010	334
Grand total	262	207,911	7,081	3,541	593

Abstracts from the Report of the British Board of Trade on Shipping Casualties.

Table 11 of the comparative tables, page 11, shows that during the past 20 years (ended the 30th of June, 1910) 3,980 wrecks and casualties to ships belonging to the United Kingdom have been attended with fatal results to 22,937 persons, of whom 18,660 were members of the crews and 4,277 were passengers, pilots, or other persons not on the articles of agreement of the vessels.

The average annual loss of life during these 20 years was 1,147 persons, consisting of 933 crew and 214 passengers. Compared with this average the figures for 1909–10 show a total decrease of 197, the number of seamen lost being less by 243, while the number of passengers was higher by 46.

LIVES SAVED FROM SHIPWRECK.

The total number of seamen and passengers saved from wrecks of British vessels everywhere, and of foreign vessels on or near the coasts of British territory, during the year 1909–10 was 7,936, of whom 2,341 were saved on or near the coasts of the United Kingdom, 3,183 on or near the coasts of British possessions abroad, 1,745 from British vessels on or near the coasts of foreign countries, and 667 from British vessels on the high seas.

Of the 2,341 lives saved on the coasts of the United Kingdom, i. e., within a line drawn around the coasts about 10 miles from the most prominent headlands as show on the first chart in this return, 122 were saved by the rocket apparatus and assistance from the shore, 265 were saved by lifeboats, 146 were saved by coast-guard boats and other craft, 594 were saved by passing ships, and 1,181 were saved by the ships' own boats.

Of the 5,595 lives saved from wrecks abroad, 131 were saved by rocket apparatus and ropes from shore and 47 by lifeboats, but the majority were saved by the ships' own boats (3,389) and by passing ships (1,057).

Statement by Andrew Furuseth, President of the International Seamen's Union of America, Bearing on the Seamen's Petition to Congress, February 23, 1910.

Safety at sea. What a lot of rot has been written and spoken on this subject. Safety at sea is promoted, first, by a good vessel, staunch and well found; second, by good boats and enough of them; third, by a crew sufficient in number and skill to handle the vessel while she is afloat; to lower, man, and handle the boats when the vessel must be abandoned. * * *

Now, let me intrust you with a very deep secret. There is not sailing to-day on any ocean any passenger vessel carrying the number of boats needed to take care of the

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passengers and crew, nor a sufficient number of skilled men to handle those boats which are carried. If there were, the seamen's condition would be much better than it is now. There would be men enough on board to do the work without overwork. Men would not be kept four or six hours at the wheel. * * *

The average shipowner knows this, but he must keep up with the procession—he must carry passengers as cheaply as the other fellow; he must compete with the railroad, or he must go out of business.

If vessels are lost, the insurance—that is, the public—pays the loss.

If passengers are lost, that's very bad; but there is God to be blamed.

If seamen are lost, why there are plenty more idle men to be had on shore. They cost nothing, not even in the training, because they need no training, no skill being required by law.

As to the passengers, are they satisfied with these conditions? The passengers do not know; they are told a lot of rot about bulkheads, water-tight compartments, vessels so built that they will not sink or burn. Of course, we seamen know this to be the veriest nonsense.

But the passenger reads this in the papers, or reads something that looks like it, and being a fatalistic optimist and wishing that this may be so, he promptly believes it. * * * And then the cabins and staterooms are well fitted; the dining room, the social hall, are veritable dreams of luxury and comfort, and surely when so much is expended on comfort and convenience the owner must be presumed to have taken equally good care of that rather important matter—safety.

Let me tell you one more secret. Vessels that can not sink and will not burn have not yet been built. The art of shipbuilding has not reached that far as yet. If you wish more safety you must insist * * * that there shall be a standard of individual efficiency provided for the crews; that at least 75 per cent of the deck crew, exclusive of licensed officers, must be up to that standard before the vessel shall be permitted to proceed to sea. Insist that those men shall have a decent place to live, eat, and sleep in, and that it shall be so placed that they can all come on deck quickly when they are needed.

Thus you will improve safety at sea; you will help to save thousands of human lives and millions of dollars' worth of property every year, and you will help the seamen; you will bring the American to sea.

Immediately after the loss of the *Titanic* a statement was issued by a number of the survivors, from which we quote the following:

The insufficiency of lifeboats, rafts, etc.; lack of trained seamen to man same (stokers, etc., are not efficient boat handlers); not enough officers to carry out emergency orders on the bridge to superintend the launching and control of lifeboats.

The enactment of this bill will accomplish three very important things:

First. It will give freedom to the sailor.

Second. It will promote safety at sea.

Third. It will equalize the operating expenses of foreign and domestic vessels engaged in over-sea trade and tend to build up our merchant marine.

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FREE AND EFFICIENT SEAMEN.

MAY 22, 1912.—Ordered to be printed.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, submitted the following

VIEWS OF THE MINORITY.

[To accompany H. R. 23673.]

This bill is one of great importance, being practically a revision or a repeal of a large portion of the most important of our navigation laws. It is to be regretted that the majority of the subcommittee having the bill in charge has attempted to play politics in its consideration. The bill in its present form has never been considered by the full committee and no opportunity given to do so except in the most perfunctory way. It was referred to the subcommittee, who practically rewrote the bill. This subcommittee held many meetings to consider it, but while outside interested parties were invited to these meetings and participated in framing the bill, the minority members of the committee were not permitted to be present. This is the first time, at least in recent years, that partisan advantage has been sought in this way on any bill before the Committee on the Merchant Marine and Fisheries. If this bill is urged in good faith by its sponsers then it was not necessary to attempt to play politics in its consideration.

This bill is the most extreme and revolutionary in all probability that has ever been favorably reported to this House. For the first time in the history of this Nation it is seriously proposed to pass legislation exclusively for the benefit of foreign citizens serving foreign nations at the instigation of American citizens in this country who assume to represent these foreigners. The report is entitled "Free and Efficient Seamen," but it must not be forgotten that it is not to make "free and efficient" any American seamen. The sole purpose of this bill is to use the legislative power of this Government to compel foreign nations to grant to their own subjects certain demands, not made by these subjects of these nations, but by certain American citizens pretending to represent these oppressed foreigners.

This bill in all its essential features would not change conditions in the coastwise trade. Ninety-three per cent of our foreign trade is

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carried in foreign ships manned by foreign sailors. Of the few ships that carry the 7 per cent of our foreign trade not 10 per cent of their crews are American citizens. Of this very small number of American sailors in the foreign trade practically all of them are to be found on the American vessels that are running under the subsidy act of 1891, and they would not be affected in any way by this law. So this bill, as already pointed out, is not for the benefit of the American sailor and does not affect the American sailor, but is a proposal for the American Congress to legislate exclusively for the supposed benefit of foreign seamen. It has occurred to the minority that we had first better take care of our own people, get an American merchant marine and American sailors before we attempt to regulate the maritime affairs of other nations.

Those who favor this bill strongly opposed amendments offered proposing to limit the scope of the bill to our own sailors and our own ships. We think this Nation is undertaking a large and unnecessary task in assuming to tell foreign nations how they shall man their ships, what contracts they shall make with their own seamen, how they shall pay them, what their qualifications shall be, and even dictating to them the language that their crews shall speak—not on American ships, remember, but upon their own ships and upon every vessel that comes into our ports. It is proposed to do all these things in this bill. In other words, since Congress by its stupidity, its lack of intelligence or patriotism, has driven the American ship from the ocean, we now solemnly undertake to regulate and control all the ships of all the other commercial nations of the world, not for our own benefit, not because any American citizen has complained, but for the benefit and upon the complaint of foreign sailors that are unable to receive, as is claimed by their American representatives, just and proper treatment from the nations that they continue voluntarily to serve.

Referring to the bill itself, in section 3 it is provided that the captain or other officer of every vessel shall carry a sufficient amount of money and shall pay one-half of the wages due to every seaman in each port where the vessel shall load or deliver cargo. It is a question whether such payment would be of any advantage to the sailor. Indeed, whether or not it would not be a great detriment in many cases for the sailor to receive one-half of his wages at every port where the vessel touched. But suppose that this is a wise provision, why should we compel the foreign captain on a foreign ship to pay foreign sailors one-half of their wages? In what way and in what manner do these things concern us? And yet it is especially provided that this section shall apply to foreign vessels as well as our own.

Passing over many other objections special attention is called to section 10. In this section a contract entered into between citizens of a foreign country with one another and legal in that country becomes a crime as soon as the parties enter an American port. Leaving out the question of our authority to pass such a law, what is the sense or justification of doing it. To illustrate: A seaman in England signs a contract to make a round trip upon a British vessel from that country to this, and as a part of that contract the seaman asks and receives a portion of his wages before he sails, perhaps to be used to support his family while he is gone. This is a legal contract in England made between two British subjects, yet the moment that vessel reaches an American port that contract, legal between two

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English citizens, becomes a crime and the man guilty of advancing the seaman's wages is liable to a fine of $500 or six months' imprisonment.

Not only shall anyone be imprisoned that advances any wages to a sailor, but anyone that for hire assists a sailor to secure work is subject to the same penalty. The sailor must not assign any part of his wages except to near relatives, and in order to do this the allotment must be approved by the shipping commissioner, and it shall be the duty of such commissioner "to examine the allotments and the parties thereto," and unless this is done any allotment is illegal and the foreigner entering into such an agreement is subject to six months' imprisonment. Just how the shipping commissioner is going to examine the "parties thereto" in all the different foreign ports of the world is not pointed out, but the provision is made specifically to apply to all foreign ships, and unless a foreign vessel complies with all these regulations and requirements the vessel is not permitted to sail from our ports. Is it to be expected that any self-respecting nation will submit to such laws, passed without notice to them and without even the decency and the courtesy of first taking up the question through ordinary diplomatic channels? Nothing so ridiculous and revolutionary as section 10 was ever contained before in any bill reported to this House.

It may be well to call attention just at this point to the report, in which much stress is laid upon the point that we must make the sailor free. In the language of the report, "You can not control man's labor without controlling the man himself." Yet this is the very thing done in this bill. In this bill which the majority urge to free the sailor they take from him absolutely the freedom of contract. That is, they take away from him the right to sell his labor as he sees fit. With all their talk of freeing him from slavery they still take from him one of the highest rights of citizenship—that is the right to control and sell his own labor. The bill is utterly inconsistent, for while it urges on the one hand that the sailor shall be free, on the other they take from him many of the rights that are granted to all other citizens.

As in section 10 we tell the foreigner what contracts he shall make with his own fellow citizens, on his own ship, under his own flag, or with the citizens of other nations, so in section 12 the foreign shipowner, running his ship under the laws and the flag of his own country, is specifically told what kind of a crew he shall carry, how old a sailor must be, what experience such man must have before he is permitted to employ him, and we specifically prescribe what evidence must be produced to prove the competency of the sailor. We prescribe also what language each sailor must speak, and unless all these provisions are complied with this vessel can not clear from our ports. Not only do we prescribe all these requirements, but the collector of customs "shall upon the sworn information of any citizen of the United States setting forth that this section is not complied with cause a muster of the crew of any vessel to be made." There is no provision to punish anyone for making a false statement in order to obtain such muster. A more dangerous provision than this can not be imagined, as it absolutely places it within the power of a dozen irresponsible men, in case of strikes or labor disputes, to tie up the entire shipping of this Nation. The minority does not believe that the majority intended to enact any

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such legislation as this provision, but it shows how little real consideration was given to the bill.

Section 13 prescribes that American vessels shall carry American boys. The best that can be said of this section is that it would impose a wholly useless burden upon the shipowner without any benefit to anyone, for while the shipowner is compelled to carry these boys no duty is imposed upon them. They can leave at any port and undoubtedly would not stay long enough except in rare cases to learn anything. In addition to this these boys are not paid anything, taught anything, or required to do anything, or to obey any laws, or to be under any control whatsoever. This section is a farce and simply emphasizes the looseness and the lack of definiteness that characterizes the entire bill.

Section 15 provides that arrest for sailors for desertion shall be abolished. This has already been done in the coastwise trade, and probably imprisonment should be abolished so far as all American ships are concerned. The minority would have no objections to a law of this kind. If this was done and imprisonment abolished on American ships if there is any force whatever in the arguments made in the majority report that the foreign sailor is oppressed upon foreign ships and made virtually a slave, and that he is desirous of obtaining his freedom, then it is perfectly clear that if this law abolished imprisonment as to American ships that the foreign sailor would seek the American ships and would leave the foreign ship where he is so oppressed and would become an American citizen and seek employment upon the American ship. This would greatly help this Nation to secure the best class of foreign sailors.

But if, on the other hand, we make a law that would apply to all the ships that come into our ports, as this bill proposes, when it does not and can not apply to the other ports of the world, then we will get the worst class of sailors to come to our shores. We will get those that are willing to violate the contract that they have made and demand half their wages and desert the ship that they have promised to protect. In other words, we would get all the deserters of the world. We would get that class of men that have no regard for their agreements. The scum of all the foreign sailors of all the seas would crowd our ports to take the place of the few American sailors that now remain. Such result would evidently reduce the wages on the American ship to the level of that paid by the foreign ship.

There are many arguments advanced by the shipowner, as shown by the hearings upon bills containing a similar provision, why desertion should be punished and the sailor returned to the ship, especially when he deserts in a foreign port. The shipowner claims that the peculiar status of the sailor, in order to protect life and property, demands stricter rules of discipline than that of the employee upon land—that the status of the sailor approaches that of the sailor in our Navy and the soldier of our Army. While the minority is not inclined to fully accept these views and believes that imprisonment for desertion from American ships should be abolished, we are not prepared to say that we should attempt to prescribe for foreign nations what is best for them to do with their own ships, manned by their own citizens. It is to be presumed that these foreign nations understand their own business and the character of their own sailors better than we do. As showing the attitude of the shipowners of the country upon these questions, a brief quotation is taken from a com-

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munication upon that subject and printed herewith, marked "Exhibit A."

The minority does not believe that our great commercial treaties, even if there was necessity for it, should be abrogated in the way that is proposed by this bill without notice and without going through the ordinary diplomatic procedure. These treaties have stood for many years, and if now we are dissatisfied with them it is our privilege to denounce them, but this should be done in a diplomatic, or at least not in an offensive, way. There is no such great emergency demanding the abrogation of these treaties, which treaty will affect not our own citizens, not our own people, but exclusively foreign sailors on foreign ships, as to cause us to practically insult every great commercial power of the world. If it is necessary to do this thing at all, let us at least do it "decently and in order."

We have to-day fewer ships and more laws than any other great nation of the world. The passage of this bill means not only fewer ships, but it means the complete disappearance of the American flag in the deep-sea trade. And all this urged, not for the benefit of any American citizen, but to relieve foreign sailors upon foreign ships from supposed wrongs inflicted upon them by the nations that they willingly serve and whose flag they prefer to our own.

WILLIAM S. GREEN.
WILLIAM E. HUMPHREY.
E. STEVENS HENRY.
ASHER C. HINDS.
THOMAS PARRAN.

EXHIBIT A.

MAY 15, 1912.

Hon. W. E. HUMPHREY,
House of Representatives, Washington, D. C.

DEAR MR. HUMPHREY: Referring to H. R. 23673 and the report of the majority on this bill, I submit the following suggestions for your consideration:

Would it give freedom to the sailor? The sailors are entitled by all the rules of humanity to be treated even more generously than men occupying relatively the same position on shore. His life has many privations and restrictions and these from the very necessity of his calling. The world demands transportation of its commerce and provides ships to care for this commerce and this creates the necessity for human occupation. In other words, the ship with all its equipment represents on water a tangible investment of property the same as that of buildings on shore. In one case the property is within sight and under the jurisdiction of the owner; in the other case, to serve the demands of the public and the necessities of the world, the property passes beyond the personal jurisdiction of the owner.

And herein lies the responsibility of the sailor to that property. The officers and crew are charged with its care and preservation. It may be at times within the jurisdiction of the owner and at other times thousands of miles away, yet he trusts to the honor and integrity of his officers and crew; he has no other protection. And it is mutual that the officers and crew should enter into contract with the owner to protect such property, return it safely to his jurisdiction, and he in turn must carry out with them certain stipulations provided by the laws of his country. All nations of the world have provided under navigation laws for the protection of the ship and the protection of the personnel of the ship, and these laws provide that it is as unjustifiable to leave a sailor stranded in a foreign port as it is to leave a ship stranded there. It is now provided under this bill that all rights of the sailor shall be protected and that is properly so, but the rights of the owner of the property shall be absolutely sacrificed, and this property is no longer to be considered in trust, nor are the men in charge of the property to be considered trustworthy. Under the law, in order to give the sailor so-called freedom, he can leave that property in any foreign port to lie there to rust or sink and never to be returned if he so sees fit.

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The present navigation laws provide for the contractual relation between the ship and the crew. It is proper to safeguard the right of the crew as well as to safeguard the right of the owner, but it is eminently improper, under such a law as this, under the guise of giving a sailor freedom, to instruct him to totally disregard his owner, his written contract, and abandon the property at some foreign port to the mercy of winds and weather, in order to provide for something besides mere individual freedom.

The American ship has practically disappeared in the foreign trade. There seems to be a universal opinion that this great industry should be rehabilitated, but what man will invest in property which, under the laws of his country, can be abandoned in any foreign port never to be returned again to his jurisdiction? This law adds a new one to our statutes which instead of being helpful adds more difficulties to the possibilities of this venture.

Would it promote safety at sea? Safety at sea fundamentally depends upon the seaworthiness of the vessel, and, second, upon the efficiency of the officers and crew. The safety of the vessel is a question which depends upon the laws of a country providing as to the classification under which a ship shall be built, and these are the result of long years of experience and cooperation between the officers of the Government charged with such matters and the naval architects who design the ships. There is no question but what there has been a great improvement in the manner in which ships are built to insure their safety at sea and doubtless this will continue. It is the desire of shipowners to build ships that will float and not ships that will sink; that will safely perform services at sea on top of the ocean and not underneath it; nor is the owner protected as people would have you suppose by the mere question of insurance. The loss of a ship means more than the actual loss of the value of that ship, for it means loss of prestige, loss of business until the ship can be replaced, and loss through lawsuits, which invariably follow a marine disaster.

It therefore follows that the owner will endeavor to build ships according to the highest classification that the law provides, and especially so if the ship is adapted for passenger service. Not only is this true in this direction, but in competition the ship which is built under the highest classification can carry cargo for less than one built without classification, for the reason that the one has the support of a low rate of insurance for the cargo carried, whereas the other has a high rate or none. It is true, and this has been proven by the disaster to the *Titanic*, that human ingenuity to date, regardless of the vast expenditure of money in hull and engine, has not safeguarded against the personal equation of human error, and doubtless it never will. It is folly to assume that shipowners provide luxurious staterooms, saloons, and lounging rooms in order to deceive the traveling public in regard to the frail construction of the ship. No one would make such a statement except they had no knowledge of the simplest classification requirements fundamental in the building of a ship. The most luxuriant decoration and equipment forms but a small proportion of the cost of hull and engines, and let alone the question of the safety of the ship at sea, it takes the highest skill of naval architecture to properly design the members that go to form the fabric of a great ship so that the completed unit will stand the stress and strain in all parts, and no one part can be slighted without disaster to the whole. It would be just as great folly for a naval architect to build a weak ship as it would be for a bridge constructor to build a weak bridge, and human nature does not seek that character of destruction. It is, however, far more important that the ship should be stanch than that the crew should be efficient if life is the first consideration.

But now to the efficiency of the crew. There is absolutely no comparison between the internal organization of a ship, embracing almost all character of labor, and any great mechanical or industrial plant where diversified labor is employed. In one there is an unwritten law that at times calls for the highest manhood in the protection of the property and life intrusted to his care; in the other he has no personal responsibility except to perform his daily task, and as that ends his responsibility ends. It never ends with the man at sea, either afloat or ashore. He is not only the caretaker, but he is the custodian of the property, and in performing these duties he is still made the protector of life on the ship, no matter in what department his services are performed. To obtain this character of efficiency exactly the same system must prevail as prevails in a military organization on sea or on shore. There must be discipline, immediate obedience, and helpful cooperation. The line of demarcation between the officer and sailor at sea and the foreman and workman on shore is as clear and distinct as the difference between land and water; you can mix them, but they are bound to separate in exactly the same manner as the elements. The law provides that this efficiency shall exist, and public criticism and public clamor always go up in case of disaster, and demand to know whether this efficiency exists, and this can not be obtained if the sailor has the right to come and go as he pleases, is his own master aboard the ship, is his own judge as to what he should do and should not do. If the law demands of the owner and officers a rigid obedience for the protection of life and

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property, that law should cast its power over the sailor to be a part of the entire machinery by which that obedience shall safeguard life at sea. Our present laws provide that American ships shall be inspected at frequent intervals to see that they are seaworthy and properly found and equipped for sea. There are executive officers appointed to carry out these laws, and these men are selected from long years of practical training.

It is now proposed in this bill that these people should no longer be the ones to say whether a ship is properly manned, but it should pass to the opinion of a layman on shore or to the collector of a port. The collector of a port is not trained in sea matters; from his training he is not an expert to know whether a ship is properly manned; yet this law undertakes to take away from the trained man, especially selected to safeguard this situation, and place judgment for the manning of the ship in the hands either of the public or of the collector of the several ports. Such a situation seems farcical. It provides that all seamen on American ships shall have a certificate granted by the local inspectors, and yet the local inspectors who are competent to judge in regard to the qualifications of a seaman are deprived by this bill to judge as to whether the crew is competent and the ship properly manned. There is nothing in the law which would compel a seaman to take an examination and provide himself with this certificate; the law is mandatory that a ship can not go to sea unless its crew carries these certificates. It takes the discipline of the ship out of the hands of the owners and out of the hands of the officers.

It is said it will equalize the operating expenses of foreign and domestic vessels engaged in over-sea trade and tend to build up our merchant marine. Was there ever such sophistry; such fallacy? No one has ever been able to raise himself by his own boot straps. This bill provides that when foreign ships enter American ports the men, after demanding one-half the wages due, will go ashore and voluntarily cancel the contracts as called for by the shipping articles of their respective nationalities. Either, then, these ships must remain in port until, through their consuls, they can obtain new crews or take on their old crews with increased wages out of American ports. This is brought forth as an argument that it will tend to put the expenses of operation of the foreign shipowner on a parity with the cost of operation to the American shipowner. It will certainly bring about a cruel situation of industrial chaos, detrimental to the foreign shipowner and to the men and discredit the integrity of our great seaports. It will destroy the last vestige of discipline, the last of that esprit de corps which must exist between the master and crew in relation to the ship upon which the traveling public depends for safety and regularity of service. No man-of-war that shifts its crew every week or 10 days, as the trans-Atlantic lines will be compelled to shift their crews, could ever be made an efficient unit. No good hotel that changes its help every week would meet with the approval of its guests; and yet this bill proposes to put these conditions in effect upon the foreign shipowner in order, as it is alleged, to help the American shipowner, where, as a matter of fact, there are practically no American shipowners who have to be protected in this particular trade. The true interpretation of this measure in the bill is that a foreigner is to be educated to disregard his personal contracts under the laws of his own country and to be taught that the arrival in American territory is the signal for him to disregard all the obligations of his sacred agreement for the protection of which property he has entered into a valid and proper agreement under the laws of his own country, laws which were not only for the protection of the owners, but for his own protection.

It is a grave question, aside from the justice of this contention, whether this country has the right to take from the jurisdiction of the foreign consuls stationed in this country the rights which a foreigner has, provided there is no criminal charge against him. American consuls abroad are supposed to protect Americans in foreign countries. A foreigner coming to this country is supposed to receive that protection through his consul. This law practically provides that foreign sailors have the right to enter the United States, entirely regardless of the immigration laws, in order that they may perform an alleged benefit to the American shipowner.

Those in favor of this bill would have you believe that it is their desire that the American boy should go to sea, and yet they have placed before the committee the argument that if this bill becomes a law the American ports will be flooded with the cream of the sailors of foreign countries and that we will have the best of the sailors to pick and choose from. Is it a desirable citizenship for us to have men who have broken faith with the laws of their own countries? Our Government demands that a deserter from its service shall be punished, and desertion follows a man through life. The obligation of a seaman to his ship is just as vital as the obligation of a sailor or a soldier to his Government and the penalty should be the same.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 647.

SERVICE PENSION TO CERTAIN DEFINED VETERANS OF THE CIVIL WAR AND WAR WITH MEXICO.

MAY 2, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ADAIR, from the committee of conference, submitted the following

CONFERENCE REPORT.

[To accompany H. R. 1.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1) granting a service pension to certain defined veterans of the Civil War and the War with Mexico, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

That any person who served ninety days or more in the military or naval service of the United States during the late Civil War, who has been honorably discharged therefrom, and who has reached the age of sixty-two years or over, shall, upon making proof of such facts, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll and be entitled to receive a pension as follows: In case such person has reached the age of sixty-two years and served ninety days, thirteen dollars per month; six months, thirteen dollars and fifty cents per month; one year, fourteen dollars per month; one and a half years, fourteen dollars and fifty cents per month; two years, fifteen dollars per month; two and a half years, fifteen dollars and fifty cents per month; three years or over, sixteen dollars per month. In case such person has reached the age of sixty-six years and served ninety days, fifteen dollars per month; six months, fifteen dollars and fifty cents per month; one year, sixteen dollars per month; one and a half years, sixteen dollars and fifty cents per month; two years, seventeen dollars per month; two and a half years, eighteen dollars per month; three years or over, nineteen dollars per month. In case such person has reached the age of seventy years and served ninety days, eighteen dollars per month; six months, nineteen dollars per month; one year, twenty

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dollars per month; one and a half years, twenty-one dollars and fifty cents per month; two years, twenty-three dollars per month; two and a half years, twenty-four dollars per month; three years or over, twenty-five dollars per month. In case such person has reached the age of seventy-five years and served ninety days, twenty-one dollars per month; six months, twenty-two dollars and fifty cents per month; one year, twenty-four dollars per month; one and a half years, twenty-seven dollars per month; two years or over, thirty dollars per month. That any person who served in the military or naval service of the United States during the Civil War and received an honorable discharge, and who was wounded in battle or in line of duty and is now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line of duty resulting in his disability is now unable to perform manual labor, shall be paid the maximum pension under this Act, to wit, thirty dollas per month, without regard to length of service or age.

That any person who has served sixty days or more in the military or naval service of the United States in the War with Mexico and has been honorably discharged therefrom, shall, upon making like proof of such service, be entitled to receive a pension of thirty dollars per month.

All of the aforesaid pensions shall commence from the date of filing of the applications in the Bureau of Pensions after the passage and approval of this Act: Provided, That pensioners who are sixty-two years of age or over, and who are now receiving pensions under existing laws, or whose claims are pending in the Bureau of Pensions, may, by application to the Commissioner of Pensions, in such form as he may prescribe, receive the benefits of this Act; and nothing herein contained shall prevent any pensioner or person entitled to a pension from prosecuting his claim and receiving a pension under any other general or special Act: Provided, That no person shall receive a pension under any other law at the same time or for the same period that he is receiving a pension under the provisions of this Act: Provided further, That no person who is now receiving or shall hereafter receive a greater pension, under any other general or special law, than he would be entitled to receive under the provisions herein shall be pensionable under this Act.

Sec. 2. That rank in the service shall not be considered in applications filed hereunder.

Sec. 3. That no pension attorney, claim agent, or other person shall be entitled to receive any compensation for services rendered in presenting any claim to the Bureau of Pensions, or securing any pension, under this Act, except in applications for original pension by persons who have not heretofore received a pension.

Sec. 4. That the benefits of this act shall include any person who served during the late Civil War, or in the War with Mexico, and who is now or may hereafter become entitled to pension under the acts of June twenty-seventh, eighteen hundred and ninety, February fifteenth, eighteen hundred and ninety-five, and the joint resolutions of July first, nineteen hundred and two, and June twenty-eighth, nineteen hundred and six, or the acts of January twenty-ninth, eighteen hundred and eighty-seven, March third, eighteen hundred and ninety-one, and February seventh, eighteen hundred and ninety-seven.

Sec. 5. That it shall be the duty of the Commissioner of Pensions, as each application for pension under this act is adjudicated, to cause to be kept a record showing the name and length of service of each claimant, the monthly rate of payment granted to or received by him, and the county

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and State of his residence; and shall at the end of the fiscal year nineteen hundred and fourteen tabulate the record so obtained by States and counties, and shall furnish certified copies thereof upon demand and the payment of such fee therefor as is provided by law for certified copies of records in the executive departments.

And the Senate agree to the same.

Amend the title so as to read: "An act granting pensions to certain enlisted men, soldiers, and officers who served in the Civil War and the War with Mexico."

ISAAC R. SHERWOOD,
JOHN A. M. ADAIR,
Managers on the part of the House.

P. J. MCCUMBER,
HENRY E. BURNHAM,
Managers on the part of the Senate.

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STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The bill, as it passed the House, proposed to grant pensions for 90 days or more service in the Civil War or 60 days in the War with Mexico and less than 6 months, $15 per month; for 6 months' service and less than 9 months, $20; for 9 months and less than 1 year, $25 per month; and for 1 year or more, $30 per month.

The bill was amended by the Senate by striking out all after the enacting clause and inserting a provision to amend the existing law, known as the act of February 6, 1907, so that pensions allowed under that law would be granted at the following rates and under the following conditions: When a man had reached the age of 62 years and had served 90 days in the Civil War, he should receive $13 per month; 6 months, $13.50; 1 year, $14; one year and a half, $14.50; 2 years, $15; two years and a half, $15.50; 3 years and over, $16 per month. When such person had reached the age of 66 years and served 90 days, $15 per month; 6 months, $15.50; 1 year, $16; one and a half years, $16.50; 2 years, $17; two and a half years, $17.50; 3 years and over, $18. When such person had reached the age of 70 years and had served 90 days, $18; 6 months, $19; 1 year, $20; one and a half years, $21; 2 years, $22; two and a half years, $23; 3 years or over, $24 per month. When such person had reached the age of 75 years and served 90 days he should receive $21 per month; 6 months, $22.50; 1 year, $24; one and a half years, $25.50; 2 years, $27; two and a half years, $28.50; and 3 years and over, $30 per month.

It also provided that the Commissioner of Pensions should make a separate report for each county, State, Territory, or district, showing names and lengths of service, rates of payment, and residences of all pensioners in the United States.

It also provided that any person who was in receipt of an income of $2,400 per year should not be eligible to pension under this act.

Your conferees, after a full conference, reported an agreement to the effect that the House recede from its disagreement to the amendments of the Senate and agree to the same with an amendment.

This amendment does not amend the existing law, but makes this a new act.

It provides rates differing from the rates in the Senate amendment as follows: When a person has served in the Civil War or War with Mexico and reached the age of 66 years, and had a service of two and a half years, he should receive $18 instead of $17 per month; three years' service, $19 instead of $18 per month. In case such person had reached the age of 70 years and served one and a half years, $21.50 per month instead of $21; two years, $23 per month instead of $22; two and a half years, $24 instead of $23 per month; three years and over, $25 per month instead of $24. And in case such person had reached the age of 75 years and served one and a half years, $27 instead of $25.50; two years, $30 per month instead of $27; two and a half years, $30 per month instead of $28.50, and three years, $30, as provided in the Senate amendment.

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Your committee also recommended another amendment which provides that certain classes who are provided for in certain acts and joint resolutions of Congress and are now receiving pensions under existing laws should be entitled to the benefits of this act.

It also changes the provision in the matter of the Commissioner of Pensions publishing the names of the pensioners. It provides that he shall keep a record of the pensions which are allowed under this act and at the end of the fiscal year 1914 should tabulate the same and give them to those who desire them upon the payment of fees for certified copies.

It also eliminates that feature of the Senate amendment providing that those who have an income of $2,400 should not be pensionable under this act.

Your committee also found it necessary to amend the title because of the fact that in view of the combination of age and service it could not be construed to be a service act. They therefore amended the title in accordance with the amendment adopted by your conference.

The amendment recommended by your conferees increases the amount as carried by the Senate amendment about $1,685,000.

Respectfully submitted.

ISAAC R. SHERWOOD,
JOHN A. M. ADAIR,
Conferees on the part of the House.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 648.

REGULATION REGARDING OFFICERING AND MANNING OF VESSELS.

MAY 3, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HARDY of Texas, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 23676.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 23676) to regulate the officering and manning of vessels, subject to the inspection laws of the United States, having had the same under consideration, reports it back with sundry amendments, with the recommendation that as amended it do pass.

The amendments made by your committee to said bill are as follows:

Page 2, lines 9 and 10, strike out the words "of the United States, subject to the inspection laws," and insert the word "such" in line 9 before the word "vessel."

Lines 9 and 10, page 3, strike out the words "every ocean-going and coastwise vessel, subject to the inspection laws of the United States," and the word "not" in line 10, and insert in line 9, after the word "that," the words "no such vessel."

Line 13, page 3, strike out the words "ocean-going and coastwise" and in lieu thereof insert the word "such."

Line 23, page 3, strike out the words "ocean-going and coastwise" and insert the word "such."

Page 4, at the end of line 9, insert the following:

Provided, That this section shall not apply to fishing or whaling vessels or yachts or to motor boats as defined by the act of June ninth, nineteen hundred and ten, chapter two hundred and sixty-eight of the Statutes at Large of the United States.

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Page 4, line 11, strike out the word "require" and insert instead thereof the word "permit." The said bill as amended is printed herewith:

A BILL To regulate the officering and manning of vessels subject to the inspection laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-four hundred and sixty-three of the Revised Statutes of the United States be, and is hereby, amended to read as follows:

"SEC. 4463. Any vessel of the United States subject to the provisions of this title or to the inspection laws of the United States shall not be navigated unless she shall have in her service and on board such complement of licensed officers and crew as may, in the judgment of the local inspectors who inspect the vessel, be necessary for her safe navigation. The local inspectors shall make in the certificate of inspection of the vessel an entry of such complement of officers and crew, which may be changed from time to time by indorsement on such certificate by local inspectors by reason of change of conditions or employment. Such entry or indorsement shall be subject to a right of appeal, under regulations to be made by the Secretary of Commerce and Labor, to the supervising inspector and from him to the Supervising Inspector General, who shall have the prower to revise, set aside, or affirm the said determination of the local inspectors.

"If any such vessel deprived of the services of any number of the crew without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the vessel may proceed on her voyage if, in the judgment of the master, she is sufficiently manned for such voyage: *Provided*, That the master shall ship, if obtainable, a number equal to the number of those whose services he has been deprived of by desertion or casualty, who must be of the same grade or of a higher rating with those whose places they fill. If the master shall fail to explain in writing the cause of such deficiency in the crew to the local inspectors within twelve hours of the time of the arrival of the vessel at her destination, he shall be liable to a penalty of fifty dollars. If the vessel shall not be manned as provided in this act, the owner shall be liable to a penalty of one hundred dollars, or, in case of an insufficient number of licensed officers to a penalty of five hundred dollars."

SEC. 2. That the board of local inspectors shall make an entry in the certificate of inspection of every ocean-going and coastwise merchant vessel of the United States propelled by machinery, and every ocean-going vessel carrying passengers, the minimum number of licensed deck officers required for her safe navigation according to the following scale:

That no such vessel shall be navigated unless she shall have on board and in her service one duly licensed master.

That every such vessel of one thousand gross tons and over, propelled by machinery, shall have in her service and on board three licensed mates, who shall stand in three watches while such vessel is being navigated, unless such vessel is engaged in a run of less than four hundred miles from the port of departure to the port of final destination, then such vessel shall have two licensed mates; and every vessel of two hundred gross tons and less than one thousand gross tons, propelled by machinery, shall have two licensed mates.

That every such vessel of one hundred gross tons and under two hundred, propelled by machinery, shall have on board and in her service one licensed mate; but if such vessel is engaged in a trade in which the time required to make the passage from the port of departure to the port of destination exceeds twenty-four hours, then such vessel shall have two licensed mates.

That nothing in this section shall be so construed as to prevent local inspectors from increasing the number of licensed officers on any vessel subject to the inspection laws of the United States if, in their judgment, such vessel is not sufficiently manned for her safe navigation: *Provided*, That this section shall not apply to fishing or whaling vessels, yachts, or motor boats as defined in the act of June ninth, nineteen hundred and ten.

SEC. 3. That it shall be unlawful for the master, owner, agent, or other person having authority to permit an officer of any vessel to take charge of the deck watch of the vessel upon leaving or immediately after leaving port, unless such officer shall have had the preceding watch off, and no licensed officer on any ocean or coastwise vessel shall be required to do duty to exceed nine hours of any twenty-four while in port, including the date of arrival, or more than twelve hours of any twenty-four at sea, except in a case of emergency when life or property is endangered. Any violation of this section shall subject the person or persons guilty thereof to a penalty of one hundred dollars.

SEC. 4. That all laws or parts of laws in conflict with this act are hereby repealed.

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The bill herewith reported amends existing law essentially and materially as follows: First, by providing that when a vessel shall have been manned as required by law, and shall have been deprived by desertion or otherwise of part of her crew, the master shall, if obtainable, refill the crew with a full complement of members of equal or higher rating. This obligation on the part of the master is perhaps implied by existing law, but it is not definitely required, and in terms the law, as it now stands, really permits the master, if he shall lose some of his crew required by the local inspector when he began his voyage, to proceed at his discretion and to further navigate the vessel without any effort to refill her crew. Your committee believes this ought not to be allowed.

Section 2 of the bill reported is entirely new law. Existing law requires that no vessel shall be navigated unless she shall have "in her service and on board such complement of licensed officers and crew as may in the judgment of the local inspectors * * * be necessary for her safe navigation," but your committee believes that unlimited discretion in the hands of local inspectors, without any minimum requirement of law as to the number or skill of crew or officers is not safe either for the vessel itself or for other vessels upon the ocean; therefore section 2 of the bill provides a certain minimum of licensed deck officers, according to a scale set forth, and at the same time permits the local inspectors to require a greater number of such officers if in his judgment, informed by full knowledge as to any given vessel and its circumstances, he deems the minimum scale insufficient for her safe navigation. The committee recognized that it was impossible for Congress to know just what number of officers might be required in every case, and therefore we only prescribed such minimum number as seemed to us absolutely necessary in all cases for that safety of navigation which ought to be required at all times. We deemed it necessary to guard against a vessel being by overpersuasion or influence or carelessness permitted to go to sea so poorly officered as to be unsafe herself and a menace to other vessels. The scale we have provided is moderate and is fully equaled by the present custom and practice voluntarily adopted by the great majority of vessels. We believe that motives of economy ought not to be permitted to authorize a few vessels to be navigated without efficient and sufficient officering.

Section 3 of the bill is also a new law and in our judgment most essential and necessary. It is intended to prevent overworked, tired, and weary, and therefore unsafe officers from having charge of a vessel. There was a great deal of evidence before us as to individual instances of officers being on duty for more than 16 hours consecutively. Sometimes they were on duty 24 hours and sometimes even much longer than that. (See hearings before the committee, Feb. 1, 1912, pp. 12, 17, 18, 37, 39, 40, 41, and hearings Mar. 7, 1912, pp. 42, 45, 71, and 135.)

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 650.

BRIDGE ACROSS RUSSELL FORK OF BIG SANDY RIVER, MILLARD, KY.

MAY 3, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HAMILTON of Michigan, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT.

[To accompany H. R. 23461.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 23461) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Russell Fork of Big Sandy River at or near Millard, Ky., having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the War Department, as will appear by the letter attached and which is made a part of this report.

[Second indorsement.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, April 30, 1912.

Respectfully returned to the Secretary of War.

The accompanying bill (H. R. 23461, 62d Cong., 2d sess.) authorizing the construction of a bridge across Russell Fork of Big Sandy River, at or near Millard, Ky., is in the usual form and makes ample provision for the protection of navigation interests.

So far as those interests are concerned, I know of no objection to its favorable consideration by Congress.

W. H. BIXBY,
Chief of Engineers, United States Army.

[Third indorsement.]

WAR DEPARTMENT, *May 2, 1912*

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the foregoing report of the Chief of Engineers, United States Army.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 652.

NEW DIVISION OF THE SOUTHERN JUDICIAL DISTRICT OF TEXAS.

MAY 3, 1912.—Ordered to be printed.

Mr. CLAYTON, from the committee of conference, submitted the following

CONFERENCE REPORT.

[To accompany H. R. 14083.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to House bill 14083 having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 2, and agree to the same.

H. D. CLAYTON,
E. Y. WEBB,
Managers on the part of the House.
C. D. CLARK,
KNUTE NELSON,
C. A. CULBERSON,
Managers on the part of the Senate.

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STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The conferees on the part of the House agreed to the Senate amendments Nos. 1 and 2, which strike out sections 3 and 4 of the bill, for the reason that, in our opinion, the matters mentioned in those sections are provided for by general law, and therefore said sections 3 and 4 are unnecessary.

H. D. CLAYTON,
E. Y. WEBB,
Managers on the part of the House.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 653.

AMENDING LAWS RELATING TO NAVIGATION.

MAY 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 23067.]

The Committee on the Merchant Marine and Fisheries, to which was referred the bill (H. R. 23067) to amend the laws relating to navigation, submits the following report and recommends that the bill do pass with the following amendments:

Page 1, line 3, strike out the words "from one port" and insert "to or from any port in any State"; line 4, strike out "another port of the United States" and insert "or from any port or place in the Territory of Alaska"; line 5, after the word "in", insert "a vessel or."

Strike out all of the bill after the word "landed" in line 7, page 1.

The bill as amended will read as follows:

> That no passenger shall be carried by water to or from any port in any State of the United States to or from any port or place in the Territory of Alaska, either directly or by a foreign port, except in a vessel or vessels of the United States, under a penalty of two hundred dollars for each passenger so transported and landed.

The present statute with reference to foreign ships carrying passengers in the coastwise trade reads as follows:

> That no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under penalty of two hundred dollars for each passenger so transported and landed.

One of the Federal courts has decided that where foreign "vessels" were used instead of a foreign "vessel" that the law, while violated in spirit, was not violated in letter, and that it being a criminal statute that it should be strictly construed. Taking advantage of this technical defect in the existing law the Canadian Pacific Railway has for several years openly and flagrantly violated the coastwise laws of the United States by carrying passengers from American ports on Puget Sound to American ports of Alaska. This company openly sells through tickets from Seattle to Alaskan ports and from Alaskan ports

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to Seattle. All that is required of a passenger using one of these tickets is that when he reaches Vancouver or Victoria that he step from one British vessel to another British vessel, which he finds awaiting him at the same wharf. This evasion of the law is so clear and palpable that no one has ever attempted to deny or justify it. The Canadian Pacific Railway vessels, however, have openly declared that they will evade it as long as it remains unamended. The law as to carrying freight formerly read the same as the present law in regard to passengers, and this was evaded in the same way. This part of the statute was then amended so that it was no longer possible. It was not thought at that time that there was any necessity for amending the statute with reference to passengers, as it was not conceived that it would be evaded, but owing to the peculiar geographic situation it has been found both easy and profitable for the Canadian Pacific Railway vessels to take advantage of this letter defect in the law. The Department of Commerce and Labor has repeatedly called attention to this situation and asked that it be remedied by proper legislation

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 654.

REMISSION OF PORTION OF THE CHINESE INDEMNITY.

MAY 4, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TOWNSEND, from the Committee on Foreign Affairs, submitted the following

REPORT.

[To accompany H. J. Res. 137.]

The Committee on Foreign Affairs, to whom was referred H. J. Res. 137, having considered the same, report it to the House with the recommendation that it do pass.

This resolution completes the measure of justice provided by the act of May 25, 1908, giving adjudication in the Court of Claims to American citizens whose claims upon the Chinese indemnity fund were entitled to a revision by that tribunal.

It also provides for reimbursement to the United States out of that fund of expenses incurred in carrying out the provisions of that act.

The jurisdiction of the court was restricted to claims that had been presented to the two commissioners who had been appointed to sit in China in 1901–2, to the amounts originally claimed, and to claims filed with the court within one year from the passage of the act. The court was directed to make such awards as should be, in each case, "fully and substantially compensatory." Under this act there were filed with the court 22 claims, the position of which now is: Eleven cases have received judgments amounting to $782,988.74; 11 cases pending, amounting to $31,183.60.

The Chinese indemnity fund was established for "equitable indemnities to the Governments, societies, and individuals who have suffered" from the antiforeign outbreak for which the Chinese Government accepted responsibility. The rule laid down by the representatives of the powers for the administration of the fund for reimbursement was:

> Damages shall be assessed as far as possible and in conformity with the above mentioned principles with a view to putting Governments, societies, companies, and private individuals back in the position in which they would have been if the antiforeign movement of 1900 had not taken place.

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The awards by the Court of Claims have given effect in equity to that rule. But in securing that adjudication American citizens incurred expenses, through no fault of their own, that would, if not reimbursed out of the fund, make the awards by so much less than "fully and substantially compensatory" as the act of May 25, 1908, declared they must be. Ample precedent in international law exists for the principle of such allowance, as to which the Department of State, writing to this committee under date of February 4, 1911, said:

> This department sees no objection to the proposed amendment to the joint resolution of May 25, 1908, "providing for the remission of a portion of the Chinese indemnity."
>
> Since the proposed amendment provides for the payment of costs only in the suits in which recoveries have been or may hereafter be had under the joint resolution of May 25, 1908, it seems but just that, since the claimants have been put to this extra expense through no fault of their own, the charge should be borne by the indemnity fund which was demanded from China in part for the payment of such claims.

In defending the fund before the Court of Claims the Department of Justice incurred expense, and the court itself was put to expense for printing. Those expenditures should be repaid from the fund.

Of the $2,000,000 reserved by the act of May 25, 1908, not more than half will be taken even if expenses of the United States and claimants are allowed, leaving 50 per cent to be remitted to China out of the indemnity fund of $24,440,778.81.

The proposal is not new. The resolution was favorably reported in the last Congress by this committee, and was passed by the Senate in that session. The relief so far as claimants are concerned is restricted to those who have been successful, and allowance is not fixed but is placed in the discretion of the court. There is no expenditure of funds belonging to the United States, but compensation to American citizens out of a fund established for their reimbursement for injuries suffered. There should be no surrender of this fund until such compensation is full and substantial and equitable.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 655.

EMERGENCY CROPS IN THE MISSISSIPPI VALLEY.

MAY 4, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WICKLIFFE, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 24029.]

The Committee on Agriculture, having had under consideration H. R. 24029, a bill to provide for emergency crops on overflowed lands in the Mississippi Valley, after full hearing and discussion submits the following report:

It has been made clear to the committee that the condition of the agricultural population of this large territory is extremely distressing and deplorable and that the present extraordinary emergency there existing fully warrants the immediate appropriation of the sum carried by this bill.

The Secretary of Agriculture, under date of May 1, 1912, in a letter directed to Senator Burnham, chairman of the Senate Committee on Agriculture and Forestry, says, in part, as follows:

> The experts in the Bureau of Plant Industry are of the opinion that there are quite a number of crops which might be put in which would result in bringing money to the farmers in case there were good men on the ground to advise and assist in organizing the work and giving instructions as to how the crops should be put out, grown, handled, and marketed.

The committee therefore recommends that the bill be passed with the following amendments:

Page 1, line 6, strike out the word "south."

Page 1, line 6, strike out the word "by" and strike out line 7 and line 8 to and including the word "industry," and insert "to be expended by the Secretary of Agriculture in."

Page 1, line 9, strike out comma after the word "seed" and insert semicolon; and strike out the words "and all other necessary expenses."

Page 1, line 9, after the word "the," insert the word "temporary."

Page 1, line 10, strike out period and insert ", and for the payment of all other necessary expenses during the present emergency."

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 656.

AMERICAN REGISTRY FOR STEAMER "DAMARA."

MAY 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. POST, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 22907.]

The Committee on the Merchant Marine and Fisheries, having had under consideration H. R. 22907, report the same back with the recommendation that the bill do pass. This bill has the approval of the Department of Commerce and Labor, as will appear by the letter hereto attached, and which is made a part of this report, marked "Exhibit A."

This bill authorizes and directs the Commissioner of Navigation to cause the steamer *Damara*, rebuilt at San Francisco, Cal., from the wreck of the British steamer *Damara*, to be registered and enrolled as a vessel of the United States.

In order to fully understand the nature of this bill it is necessary to give a brief review of the legislative history of the United States statutes governing matters of this kind.

For more than 50 years a foreign-built vessel might obtain American registry in five ways:

(1) By act of Congress.

(2) By lawful condemnation as a prize of war.

(3) By judicial forfeiture for breach of our laws.

(4) By annexation of territory carrying, subsequent to it, legislation by Congress for the registration of vessels belonging to the annexed territory.

(5) By wreck and repair in the United States, under an act passed in 1852, incorporated in section 4136 of the Revised Statutes, which, as amended, reads as follows:

> The Commissioner of Navigation may issue a register or enrollment for any vessel built in a foreign country whenever such vessel shall be wrecked in the United States and shall be purchased and repaired by a citizen of the United States, if it shall be proved to the satisfaction of the commissioner that the repairs put upon such vessel are equal to three-fourths of the cost of the vessel when so repaired.

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In 1906 it was urged that abuses and frauds had been practiced in the administration of section 4136, and that it would be better to have each case determined by Congress itself than to leave it in the hands of the commissioner; and for this reason, and no other, the section was repealed.

It will be observed that the repeal of section 4136 was not intended to be a departure from the time-honored and almost immemorial policy of our Government and our people to admit ships three-fourths American to registry, but was only to change the tribunal from the Commissioner of Navigation to Congress itself. This is clearly shown by the Congressional Record of the Fifty-ninth Congress, first session, pages 2617 to 2622, inclusive, the pertinent portions of which are herein incorporated, marked "Exhibit B."

As represented, an apparently adequate remedy remained, notwithstanding the repeal of this particular section, in the general power of Congress to grant a register for a vessel in a meritorious and honest case, and it is under this authority that H. R. 22907 is reported.

The facts involved in this particular case, as shown by the unchallenged evidence offered to the committee and to the Commissioner of Navigation, are, briefly, as follows:

The British steamer *Damara* was built in Glasgow in 1910, insured by Lloyd's for £35,000, registered British, and sailed on her maiden voyage to San Francisco with a general cargo. Having discharged her cargo, she reloaded with a full outward cargo of barley, homeward bound for the United Kingdom. She was proceeding to sea out of San Francisco Harbor in a fog, in charge of a pilot, when she ran upon the rocks at Fort Point, and was grounded there from October 8 to October 19, 1910. The log of the vessel and the other records in the case show that, immediately on striking the rocks, at 1.53 p. m., her engines were reversed to full speed astern and continued so until 3.08 p. m. During this time the steamer was assisted by three United States Government tugs and one local tug, and two 7-inch hawsers and one 3½-inch wire were parted in an effort to drag the steamer off, but of no avail. She began to make water rapidly in her tanks and bilges, and the same night stevedores commenced jettisoning and lightering cargo and bunker coal. These operations continued until the night of October 9, the vessel straining heavily on the rocks and making water faster than the steamer's pumps, going all the time, could keep it down.

The vessel was then taken charge of by the underwriters' agent in San Francisco, and the salvage of the vessel given over to the Union Iron Works Co., of San Francisco, under the immediate supervision of Lloyd's surveyors. The extent of her injuries and the difficulty of salving her were not realized or the underwriters would have abandoned her where she lay. The salvage operations cost $57,052.43, which was borne by the underwriters. On October 19, 11 days after stranding, the *Damara* was taken off the rocks and placed in dry dock in San Francisco by American crews and American ships, employed by the Union Iron Works Co. After the vessel was drydocked an examination by Lloyd's surveyors developed the fact that the damages sustained were so extensive that she was a complete wreck, her whole bottom being practically destroyed. The owners abandoned her to the underwriters, and the underwriters accepted the abandonment as a total loss, and paid the owners in full for the loss the total amount of insurance, £35,000, or $170,327.50.

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Lloyd's agents at San Francisco, acting for the British underwriters, then sought to sell the wreck as she lay. The highest offer was that of the Union Iron Works Co., $22,500. The next best offer was from a firm of junk dealers, who bid $20,000, and expected to break her up for junk. (See Exhibit C.)

The *Damara* account on the books of the underwriters then stood as follows:

Cost of salvage, paid Union Iron Works Co.	$57,052.43
Paid English owners (£35,000)	170,327.50
Total	227,379.93
Received from sale of vessel to Union Iron Works Co.	22,500.00
Net loss to underwriters	204,879.93

Of this sum, over $57,000 had been paid directly to American labor, but said sum is not included in the repair bill of the Union Iron Works Co., although it might properly have been added thereto.

In addition to the terrific loss borne by Lloyd's on the vessel, the cargo of barley (of which less than 15 per cent was salved) was fully insured and was of the value of $185,478, as shown by the outward manifest filed at the San Francisco customhouse when she cleared for the United Kingdom.

These facts, coupled with the testimony of eyewitnesses who appeared before this committee, preclude the possibility or suspicion of the wreck being intentional, and make it certain that the unfortunate grounding of this fine new ship was a financial marine disaster.

Upon the sale of the wreck to the Union Iron Works Co. for $2,500 more than the junk dealers bid, the British consul general in San Francisco revoked her British register, she being a castaway, a complete wreck, and the property of an American corporation.

The purchasers undertook to repair the vessel, and the repairs were so extensive that they amounted to $135,000 in addition to the salvage charges of $57,052.43. The repairs were made under the constant supervision and upon the specifications of Lloyd's agents, following their survey of her injuries.

In addition to the other repairs, her whole bottom was rebuilt, as shown by the evidence adduced herein and by the exhibits hereto attached, marked Exhibits D, E, and F, a perusal of which convinces that, when her repairs were completed and she was restored to her former class, 100 A–1, eligible for reinsurance, she was in reality an American bottom.

Under the requirements of Lloyds's agent, every bent or injured plate, frame, or other part of the vessel was removed and, if susceptible of fairing or other treatment, was repaired and replaced; but much of her hull was beyond repair, and $14,000 worth of new steel from the Lukens Iron & Steel Co., of Coatesville, Pa., went into her.

When her repairs were completed, she lay in San Francisco to all intents and purposes an American-built vessel, without register from any nation. The Union Iron Works Co. had invested in her $135,000, her repair account, plus $22,500, her purchase price, or a total of $157,500. June 24, 1911, the vessel was sold to James C. Eschen and Robert Minor, two American citizens, for the sum of $205,000, whereby the American shipbuilding concern realized a net profit, over and above their full material and labor account and purchase price, of $47,500.

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The Union Iron Works Co. had then received, including salvage charges, the sum of $262,052.43, which was wholly profit to an American shipyard, wages to American labor, or purchase price for American material. Only $22,500 of the *Damara* was British, or, in reality, less than one-tenth of the investment in the vessel.

The fact that a part of this total was paid by English underwriters does not lessen the benefit derived by American industries.

Prior to congressional action, in order that the vessel might not be idle, her American owners incorporated a Canadian corporation, called the California Steamship Co., and with difficulty secured a limited and temporary Canadian register; but all of the stock of that corporation is owned by Americans, and it is proposed, if American registry is granted, as a condition thereto, that actual transfer of the vessel shall be made to American citizens.

The testimony and exhibits show that the *Damara* is now a splendid new steel steamship, 415 feet over all, drawing 25 feet of water, with a dead-weight capacity of 8,340 tons. She is designed and primarily adapted for the offshore and deep-sea traffic.

The question now presented by this bill is: Shall this vessel, over nine-tenths American, having produced for American industry over $260,000, owned by American citizens, a credit to any nation whose flag she might fly, sail under the British flag or be registered as an integral part of the American merchant marine and fly the American flag on the high seas?

The committee believes she should be granted an American register, because—

(1) She is, in reality, an American-built vessel.

(2) No American shipbuilding industry has been or will be deprived of a single dollar's worth of business or profit.

(3) Her gross tonnage constitutes but one twenty-six hundredth part of the gross tonnage of American registered vessels with which she would come in competition.

(4) The building of nine-tenths of a vessel in the United States should be encouraged, as well as the building of a vessel entire.

(5) There have been presented to the committee petitions representing, in addition to the Union Iron Works Co., every other steel-ship builder on the California coast, praying that favorable action be taken on this bill.

(6) The owners of 75 per cent of the vessels on the Pacific coast have petitioned Congress to grant a register to the *Damara*.

(7) It appears that the repair account and other items making up the record in this case are bona fide, in no manner inflated, and the prices paid or charged for labor, dry-dockage, and material were in every case the current and reasonable charges therefor.

(8) It clearly appears and is uniformly conceded that the *Damara* presents the most meritorious case ever coming before Congress in a similar application, and the admission of this vessel to American registry is in all ways desirable, and, while increasing the American merchant marine to the extent of the *Damara's* tonnage, will work a hardship to no American industry.

The Department of Commerce and Labor, having had under consideration this case, report that the case is much stronger than those favorably considered for many years by the department under the old law, and strongly recommend that the vessel be admitted.

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EXHIBIT A.

DEPARTMENT OF COMMERCE AND LABOR,
Washington, April 10, 1912.

Hon. J. W. ALEXANDER,
Chairman Committee on the Merchant Marine and Fisheries,
House of Representatives.

SIR: I have received your letter of the 6th instant, transmitting H. R. 22907, a bill to provide American registry for the steamer *Damara*, with your request that I advise your committee as to the advisability of enacting this bill into law, and I note your statement that from the facts stated to you this would seem to be an exceptional case and one appealing to your committee and to Congress for consideration.

The statement under seal of Messrs. Catton, Bell & Co., Lloyd's agents at San Francisco, dated January 17, 1912, recites:

"We, Lloyd's agents at the port of San Francisco, do hereby certify that the British steamer *Damara*, of 4,988 tons gross, was built at Glasgow, Scotland, for Glasgow owners, and completed in May, 1910. That said vessel, while on a voyage from this port to the United Kingdom, fully loaded with cargo of barley, stranded near Fort Point at the entrance to this harbor on the 8th day of October, 1910.

"Great difficulty was experienced in salving the vessel, but this was finally accomplished, at an expense of $57,052.43, and the vessel was safely placed in dry dock at Hunters Point, San Francisco Bay, in a badly damaged condition on the 19th day of October, 1910.

"Upon examination in dry dock the damages sustained were found to be so extensive that she was abandoned by her owners to the underwriters, and the vessel sold by us, acting for said English underwriters, in the condition which she then lay on dry dock, to the Union Iron Works Co., of San Francisco, for the sum of $22,500, on the 10th day of November, 1910, payment in full being made on the 12th day of November, 1910.

"We further certify that the insured value of this vessel at the time of stranding was £35,000, on which basis the English underwriters settled total loss with the owners in Glasgow.

"We further certify that after purchase the Union Iron Works Co. fully repaired this vessel, the repairs being made under immediate supervision of surveyors to Lloyd's Register of British and Foreign Shipping, and on completion of the repairs the vessel was restored to the class held by her at the time of stranding, viz, 100 A-1."

The affidavit of Arnold Foster, secretary of the Union Iron Works Co., of San Francisco, recites:

"Great difficulty was experienced in salving the vessel, which salving was done by the undersigned, acting for underwriters, but was finally accomplished, and the vessel was taken from the rocks on which she was stranded and was placed in dry dock in a badly damaged condition on the 19th day of October, 1910, 11 days after the stranding.

"Upon examination in dry dock by surveyors to Lloyd's agents the damage sustained by the vessel was found to be so extensive that she was abandoned by her owners to the Hull underwriters, the abandonment accepted by the underwriters, and the vessel was sold to the undersigned for the sum of $22,500 by Lloyd's agents at San Francisco, acting for English underwriters.

"The undersigned fully repaired said vessel, restoring her to her former class, viz, 100 A-1, said repairs being made in conformity to the mandatory recommendations made by said surveyors to Lloyd's agents at time vessel was on the dock, and under the supervision of surveyors to Lloyd's agents.

"Said repairs amounted to $135,000, divided as follows:

Labor	$81,000
Material	14,000
Dry dockage and steam	40,000

"The recommendations of the surveyors to Lloyd's agents above referred to required practically taking off the whole bottom of the vessel, repairing such plates and frames as were found capable of being repaired, and furnishing new material where the old was found to be damaged beyond repair, and also repairs to the interior damage done to the double bottom of the vessel.

"Inasmuch as we are informed that the said recommendations of the surveyors to Lloyd's agents will accompany this statement, we refer to said recommendations as to detail of work performed on said vessel in lieu of incorporating same here, reasserting our above statement that said recommendations were fully carried out, and, in addition, other work on the vessel was performed, which is not stated in said recommenda-

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tions, but was found necessary to be done as the work progressed and the damage sustained by the vessel was uncovered.

"The repairs to this vessel were fully completed on February 10, 1911. This vessel was on dry dock continuously from October 19, 1910, to February 10, 1911. As the sale by Lloyd's agents at San Francisco, representing underwriters, to us was not consummated until November 12, 1910, the cost of said dockage from October 19, 1910, to November 12, 1910, was borne by the underwriters, and the cost of dockage from November 12, 1910, to February 10, 1911, was borne by the undersigned.

"The cost of salvage operations in taking the vessel from the rocks and placing her in dry dock is not included in above figures, as the cost of same was paid us by the underwriters prior to sale of the vessel to us.

"At time of wreck the vessel was sailing under a British register, issued at Glasgow, Scotland, to her then British owners. After the vessel was abandoned and sold to foreigners, said register was recalled by the British consul general at San Francisco, and as the undersigned is composed of American citizens, and hence ineligible to appear as owners of a British vessel, a register for the vessel was obtained at Vancouver, British Columbia, and a corporation formed in Vancouver to act as a holding company in order to comply with the Canadian laws and fly the British flag.

"On June 24, 1911, said vessel was sold by the undersigned to James C. Eschen and Robert Minor, citizens of the United States, for the sum of $205,000, and the stock of the said corporation formed in Vancouver—viz, California Steamship Co.—was delivered to Messrs. Eschen & Minor."

The *Damara* before the wreck was valued at £35,000 ($170,327.50), and on that basis settlement for the vessel as a total loss was effected with the Glasgow owners. She was built only a few months before the wreck, and comparison of this amount with the prices paid for similar ships in Great Britain at the same time shows that this amount was about the current price for new British-built cargo steamers. No vessel of that type was built in American shipyards that year, so the cost of a similar ship built in the United States is not available.

The ship was valued at $170,327.50, and the cargo of barley was valued at $185,478. The sum of $57,052.43 was expended on the salvage of the vessel and cargo, through the employment of American labor and wrecking appliances in San Francisco Bay. The value of the salved wreck was $22,500—the price for which it was sold—and less than 15 per cent of the cargo (say $27,800) was salved. While the expenditure of $57,052.43 for salvage is not indispensable to the consideration of this case, for 60 years it has been the policy to consider salvage in cases of admission of foreign-built wrecks to registry. The general act on that subject was passed on December 23, 1852 (repealed Feb. 22, 1906), and in its first contemporaneous construction the Attorney General on February 14, 1853 (v. Op. A. G., 675), held:

"The first movement in the repairing of the wrecked vessel would necessarily be to recover her from the submarine or fixed situation, to lift her from the rocks or shoal, to get her afloat and tow her into port, where she can be safely overhauled so that the extent of the injury may be ascertained and amended.

"All the costs and charges from the first expenditure to recover a vessel from her wrecked fixed situation to the last expenditure to put her in proper trim for use, in restoring her to usefulness in earning freight as she was before she was wrecked, seem to belong properly to the account of repairs made upon the vessel."

The actual repairs on the wreck, bought for $22,500 by the Union Iron Works Co., as shown by secretary's affidavit, amounted to $135,000, divided as follows: Labor, $81,000; material, $14,000; dry dockage and steam, $40,000, so that the ship cost the American Shipbuilding Co. $157,500. The company's secretary states that the completed ship was sold by the company to the applicants for American register for $205,000. The profit was doubtless larger than would have been obtained from building entire a similar ship at the company's works.

The papers left with the department include letters from representative American shipbuilders and shipowners on the Pacific coast favoring the admission of the steamship *Damara* to American registry.

The cost of the *Damara* when repaired was $157,500 (excluding any part of the salvage of $57,052.43), and the cost of repairs $135,000 or $16,875 in excess of the three-fourths of the cost prescribed under the former act of 1852 (former sec. 4136, R. S.), under which foreign-built wrecks were admitted for many years.

The case is much stronger than those favorably considered for many years by the Bureau of Navigation under the old law, and if authorized to do so this department would admit the vessel to registry.

The papers left with the Bureau of Navigation are transmitted herewith with the request that they be returned for the department's files.

Respectfully,

BENJ. S. CABLE,
Acting Secretary.

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EXHIBIT B.

[From the Congressional Record, February 15, 1906.]

REGISTRY OF REPAIRED FOREIGN WRECKS.

"Mr. GROSVENOR (when the Committee on the Merchant Marine and Fisheries was called). Mr. Speaker, I call up the bill (S. 1007) to repeal section 4136 of the Revised Statutes, relating to the admission to registry of repaired foreign wrecks, which I send to the desk and ask to have read.

* * * * * * *

"Mr. UNDERWOOD. I would like to know whether this bill proposes to repeal the entire law that allowed a wrecked ship to be rebuilt and have American registry.

"Mr. GROSVENOR. On the contrary, it leaves the present law exactly as it is, but it repeals simply so much of the law as authorized the Bureau of Commerce and Labor, without any hearing by Congress or anybody else, to admit these wrecks to registry.

"Mr. UNDERWOOD. Who does permit a wrecked ship, rebuilt, to register?

"Mr. GROSVENOR. It retains all that we have acted under.

"Mr. UNDERWOOD. Do I understand that if we pass this bill for a wrecked ship to get American registry it has to come to Congress?

"Mr. GROSVENOR. It has to come to Congress, as it does now."

But it did not have to come to Congress. Under section 4136 the commissioner could register it.

"Mr. UNDERWOOD. Do I understand that it does now. I understand that the Department of Commerce and Labor, if three-fourths of the ship is new and built in America, can give it American registry.

"Mr. GROSVENOR. And it simply proposes on their own recommendation that that power be taken from them, but all the other rights and privileges are retained in the law.

"Mr. UNDERWOOD. Let me ask the gentlemen, so I can understand the proposition, if 75 per cent of a wrecked vessel is rebuilt in this country, can that ship obtain an American registry under the present law without the consent of Congress?

"Mr. GROSVENOR. No; it can not.

"Mr. LACEY. We were interrupted during the reading of this report by a report from the Senate of the passage of a bill to put our flag on more ships. Now, if those ships have to be repaired in the United States and 75 per cent of their value is put into them, why should we lose the advantage of having our flag over those ships?

"Mr. GROSVENOR. There is not a particle of objection to it. On the contrary, we favor it.

"Mr. LACEY. Then, if I understand the gentleman, the policy of allowing our flag to float over a ship three-fourths American cost is not objected to by the committee, but it is merely a method of getting at it?

"Mr. GROSVENOR. That is all; it is to get rid of a cumbersome and, in many cases, a fraudulent process.

"Mr. GROSVENOR. If the gentleman will look at this report he will find that more than half of them (foreign ships registered in the United States) have been admitted by act of Congress, but it is stated by the department we have no system by which they can ascertain the facts in regard to these vessels, and therefore they propose to remit the whole power to Congress.

"Mr. WILLIAMS. Mr. Speaker, the gentleman has said this department says that they have no way to ascertain, and yet I notice here in the extract from the annual report of the Commissioner of Navigation of 1905 this language: 'The remainder, 48, were admitted under section 4136,' which is the section you propose to repeal.

"Mr. GROSVENOR. Yes.

"Mr. WILLIAMS. It would appear from that in 48 cases the department did think that it had the means to ascertain and admit the ship to enrollment.

"Mr. SULZER. Mr. Speaker, I wish to ask the gentleman from Ohio a question. Will the passage of this bill facilitate putting the American flag on foreign-built ships wrecked on our coasts or would it not? If it will, I favor it; if it does not, I am against the bill.

"Mr. GROSVENOR. If they were wrecked here and had an honest case the facilities are quite sufficient for them to get in.

"Mr. SULZER. Will this bill, if it becomes a law, facilitate or not the present policy prevailing in this Government to allow a ship built in a foreign country and wrecked in this country to be admitted to our registry and fly the American flag or not?

"Mr. GROSVENOR. If it had an honest case it would come without the slightest delay. If it did not have an honest case it would give it a great deal more of trouble than it has now.

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"Mr. ADAMS of Pennsylvania. As I understand it, the object of this is to relieve the Department of Commerce and Labor of this extra work.

"Mr. GROSVENOR. Not only that, but to insure that the work will be done faithfully and carefully by Congress itself.

"Mr. MCNARY. Mr. Speaker, I would like to ask the gentleman from Ohio if the real purpose of this is not the demand of some of the shipbuilders to prevent any of these ships coming in American registry?

"Mr. GROSVENOR. Not at all, because if they did they would have to repeal the whole law. On the contrary, not a shipbuilder in the United States, so far as I know, has asked for the passage of this bill.

"Mr. MCNARY. I would like to ask the gentleman if he favors absolutely prohibiting the repair and giving American registry to these vessels wrecked on the American coast?

Mr. GROSVENOR. I do not. I favor it, and, on the contrary, I am glad that the gentleman made the suggestion."

EXHIBIT C.

CATTON, BELL & CO.,
San Francisco, April 23, 1912.

We, Lloyd's agents, at the port of San Francisco, do hereby certify that, when endeavoring to sell the wrecked British steamer *Damara*, the best offer obtainable was received from the Union Iron Works Co., amounting so $22,500, and the next best offer to be obtained, $20,000, was made by the representatives of certain junk dealers, who bid on the wreck with the intention of breaking same up for scrap, if their bid were accepted.

CATTON, BELL & CO.,
P. E. BECKER,
Lloyd's Agents.

EXHIBIT D.

STATEMENT OF UNION IRON WORKS CO., OF SAN FRANCISCO, IN MATTER OF PURCHASE OF WRECKED STEAMER "DAMARA" FROM UNDERWRITERS, SUBSEQUENT REPAIRS TO VESSEL, AND SALE OF VESSEL TO CITIZENS OF THE UNITED STATES.

As this vessel, fully loaded with cargo of barley for England, was proceeding to sea on October 8, 1910, she stranded at Fort Point at the entrance to the harbor of San Francisco. Great difficulty was experienced in salving the vessel, which salving was done by the undersigned, acting for underwriters, but was finally accomplished, and the vessel was taken from the rocks on which she was stranded and was placed in dry dock in a badly damaged condition on the 19th day of October, 1910, 11 days after the stranding. Upon examination in dry dock by surveyors to Lloyd's agents, the damage sustained by the vessel was found to be so extensive that she was abandoned by her owners to the hull underwriters, the abandonment accepted by the underwriters, and the vessel was sold to the undersigned for the sum of $22,500 by Lloyd's agents at San Francisco, acting for English underwriters.

The undersigned fully repaired said vessel, restoring her to her former class, viz, 100 A 1; said repairs being made in conformity to the mandatory recommendations made by said surveyors to Lloyd's agents at time vessel was on the dock and under supervision of surveyors to Lloyd's agents.

Said repairs amounted to $135,000, divided as follows:

Labor	$81,000
Material	14,000
Dry dockage and steam	40,000

The recommendations of the surveyors to Lloyd's agents, above referred to, required practically taking off the whole bottom of the vessel, repairing such plates and frames as were found capable of being repaired, and furnishing new material where the old was found to be damaged beyond repair, and also repairs to the interior damage done to the double bottom of the vessel.

Inasmuch as we are informed that the said recommendations of the surveyors to Lloyd's agents will accompany this statement, we refer to said recommendations as to detail of work performed on said vessel in lieu of incorporating same here, reassert-

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ing our above statement that said recommendations were fully carried out, and, in addition, other work on the vessel was performed which is not stated in said recommendations, but was found necessary to be done as the work progressed and the damage sustained by the vessel was uncovered.

The repairs to this vessel were fully completed on February 10, 1911. This vessel was on dry dock continuously from October 19, 1910, to February 10, 1911. As the sale by Lloyd's agents at San Francisco, representing underwriters, to us was not consummated until November 12, 1910, the cost of said dockage from October 19, 1910, to November 12, 1910, was borne by the underwriters, and the cost of dockage from November 12, 1910, to February 10, 1911, was borne by the undersigned.

The cost of salvage operations in taking the vessel from the rocks and placing her in dry dock are not included in above figures, as the cost of same was paid us by the underwriters prior to the sale of the vessel to us.

At time of wreck the vessel was sailing under a British register, issued at Glasgow, Scotland, to her then British owners. After the vessel was abandoned and sold to foreigners, said register was recalled by the British consul general at San Francisco, and as the undersigned is composed of American citizens, and hence ineligible to appear as owners of a British vessel, a register for the vessel was obtained at Vancouver, British Columbia, and a corporation formed in Vancouver to act as a holding company in order to comply with the Canadian laws and fly the British flag.

On June 24, 1911, said vessel was sold by the undersigned to James C. Eschen and Robert Minor, citizens of the United States, for the sum of $205,000, and the stock of the said corporation formed in Vancouver, viz, California Steamship Co., was delivered to Messrs. Eschen and Minor.

UNION IRON WORKS CO.,
By ARNOLD FOSTER, *Secretary.*

Arnold Foster, being sworn, says that he is secretary of the Union Iron Works Co., of San Francisco; that the statements made in the foregoing are true.

ARNOLD FOSTER.

Sworn to before me this 16th day of January, 1912.

[SEAL.] HARRY L. HORN, *Notary Public.*

EXHIBIT E.

SAN FRANCISCO, *November 2, 1910.*

This is to certify that we, the undersigned surveyors, did, at the request of Messrs. Balfour, Guthrie & Co., agents for the vessel, and Messrs. Catton, Bell & Co., Lloyd's agents, make survey on the steamship *Damara*, 4,988 tons gross, in dry dock at Hunters Point, for the purpose of ascertaining the nature and extent of damage claimed to have been sustained by the vessel due to stranding on Fort Point on October 8, 1910.

From the log books, extracts from which are hereto attached, it appears that vessel was on a voyage from San Francisco, Cal., to Grimsby, England, loaded with barley in bags; that while proceeding to sea in charge of pilot on October 8, 1910, foggy weather was encountered, and vessel grounded on Fort Point.

After salvage operations, extending until and including October 19, 1910, vessel was floated and taken to Hunters Point Dry Dock.

For further particulars on salvage operations see salvage report by Capt. Logan.

SHELL PLATING.

Keel plating.—No. 1 plate, buckled and bent, to be cut out, faired, and returned, or renewed, as may be found necessary.

No. 2 plate, buckled and bent, to be cut out, faired, and returned, or renewed, as may be found necessary.

No. 3 plate, buckled and bent, to be cut out, faired, and returned, or renewed, as may be found necessary.

No. 4 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 5 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 6 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 7 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

No. 8 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

No. 9 plate, buckled and bent, to be renewed.

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No. 10 plate, fractured, to be renewed.
No. 11 plate, buckled and bent, to be renewed.
No. 12 plate, buckled and bent, to be renewed.
No. 13 plate, buckled and bent, to be renewed.
No. 14 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 15 plate, buckled and bent, to be renewed.
No. 16 plate, fractured, to be renewed.
No. 17 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

"A" strake, starboard side.—No. 2 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
No. 3 plate, buckled and bent, to be renewed.
No. 4 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
Plates Nos. 5, 6, 7, and 8, buckled and bent, to be cut out, faired, and returned to place.
No. 9 plate, buckled and bent, to be cut out and renewed.
No. 10 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
No. 11 plate, buckled and bent, to be cut out and renewed.
No. 12 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 13 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 14 plate, buckled and bent, to be cut out and renewed.
No. 15 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 16 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 17 plate, buckled and bent, to be cut out and renewed.
No. 18 plate, buckled and bent, to be cut out and renewed.
No. 19 plate, buckled and bent, to be cut out, faired, and returned to place.

"B" strake, starboard side.—No. 2 plate, buckled and bent, to be cut out and renewed.
Plates Nos. 3, 4, 5, 6, and 7, buckled and bent, to be cut out, faired, and returned to place.
No. 8 plate, buckled and bent, to be cut out and renewed.
No. 9 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 10 plate, buckled and bent, to be cut out and renewed.
No. 11 plate, buckled and bent, to be cut out and renewed.
No. 12 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 13 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 14 plate, buckled and bent, to be cut out and renewed.
No. 15 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 16 plate, buckled and bent, to be cut out and renewed.
No. 17 plate, buckled and bent, to be cut out, faired, and returned to place.

"C" strake, starboard side.—No. 1 plate, buckled and bent, to be faired in place.
No. 2 plate, buckled and bent, to be cut out and renewed.
No. 3 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 4 plate, buckled and bent, to be cut out and renewed.
No. 5 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
No. 6 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
No. 7 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 8 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
Nos. 9, 10, and 11 plates, buckled and bent, to be cut out, faired, and returned to place.
Nos. 12, 13, and 14 plates, buckled and bent, to be cut out and renewed.
No. 16 plate, buckled and bent, to be cut out, faired, and returned to place.

"D" strake, starboard side.—No. 4 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 5 plate, buckled and bent, to be cut out and renewed.
No. 6 plate, buckled and bent, to be cut out and renewed.
No. 7 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 8 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.
No. 9 plate, buckled and bent, to be cut out, faired, and returned to place.
No. 10 plate, fractured, to be cut out and renewed.
No. 11 plate, buckled and bent, to be cut out and renewed.
No. 12 plate, buckled and bent, to be cut out and renewed.
No. 13 plate, buckled and bent, to be cut out, faired, and returned to place.

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Nos. 14 and 15 plates, buckled and bent, to be cut out and renewed.

"E" strake, starboard side.—No. 3 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 4 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 5 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

Nos. 6, 7, 8, 9, 10, 11, and 12 plates, buckled and bent, to be cut out, faired, and returned to place.

PORT SIDE.

"A" strake, port side.—No. 1 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 2 plate, buckled and bent, to be renewed.

No. 3 plate, buckled and bent, to be cut out and renewed.

No. 4 plate, buckled and bent, to be cut out and renewed.

Nos. 5 and 6 plates, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

No. 7 plate, fractured, to be cut out and renewed.

Nos. 8, 9, and 10 plates, buckled and bent, to be cut out and renewed.

Nos. 11, 12, 13, 14, 15, 16, and 17 plates, fractured, to be cut out and renewed.

No. 18 plate, buckled and bent, to be cut out and renewed.

"B" strake, port side.—Nos. 2, 3, and 4 plates, buckled and bent, to be cut out and renewed.

Nos. 5, 6, and 7 plates, buckled and bent, to be cut out, faired, and returned to place.

No. 8 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

Nos. 9, 10, 11, 12, and 13 plates, buckled and bent, to be cut out and renewed.

No. 14 plate, fractured, to be cut out and renewed.

No. 15 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

Nos. 16 and 17 plates, fractured, to be cut out and renewed.

No. 18 plate, buckled and bent, to be cut out and renewed.

"C" strake, port side.—No. 1 plate, fractured, to be cut out and renewed.

No. 2 plate, buckled and bent, to be cut out and renewed.

No. 3 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

No. 4 plate, buckled and bent, to be cut out, faired, and returned to place, or renewed, as may be found necessary.

No. 5 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 6 plate, buckled and bent, to be cut out and renewed.

Nos. 7, 8, 9, 10, 11, and 12 plates, fractured, to be cut out and renewed.

No. 13 plate, buckled and bent, to be cut out and renewed.

Nos. 14 and 15 plates, fractured, to be cut out and renewed.

No. 16 plate, buckled and bent, to be faired in place.

"D" strake, port side.—No. 3 plate, buckled and bent, to be cut out, faired, and returned to place.

No. 4 plate, buckled and bent, to be cut out and renewed.

Nos. 5 and 6 plates, fractured, to be cut out and renewed.

No. 7 plate, buckled and bent, to be cut out and renewed.

Nos. 8, 9, 10, 11, 12, 13, 14, 15, and 16 plates, fractured, to be cut out and renewed.

"E" strake, port side.—Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 plates, fractured, to be cut out and renewed.

No. 13 plate, buckled and bent, to be cut out, faired, and returned to place.

Bilge keel.—Bilge keel badly bent, buckled, and fractured. To be renewed.

Three lengths of T bar, where buckled, bent, and fractured, to be cut out and renewed.

Three lengths of T bar, where buckled and bent, to be renewed, faired, and returned to place.

Rudder.—Rudder blade found to be bent; to be renewed, faired, and returned to place.

Bottom arm of rudder frame bent; to be removed, faired, and returned to place.

Rudder to be unshipped; pintles, gudgeons, and frame to be carefully surveyed and treated, as may be directed by surveyors.

Upon completion of repairs to rudder, steering gear to be carefully examined and the whole tried under steam.

Forecastle deck.—Starboard chock, where found to be started, to be refastened.

Ladder leading from forward well deck to forecastle deck to be repaired.

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Forward well deck.—Port forward mooring pipe, where found to be started, to be refastened.

Port forward bitts, where broken, to be renewed.

Winch-pipe guards in way of Nos. 1 and 2 hatch, where found to be buckled and bent, to be removed, straightened, and returned to place.

Bridge deck.—Wooden platform in fore-and-aft passageway, port side, where damaged at forward and after end, to be repaired.

Handrail at after end of bridge deck, port side, where broken and bent, to be repaired.

One bulwark plate on starboard side, where buckled and bent, to be faired in place.

One awning stanchion, where bent, to be removed, faired, and returned to place.

One bulwark stanchion, where bent, to be removed, faired, and returned to place.

One gooseneck vent pipe, where broken, to be renewed.

Whistle fittings, where broken, to be renewed.

After well deck.—Gooseneck vent pipe from No. 5 tank, port side, where broken, to be renewed.

Two covers for sounding pipes, where carried away, to be renewed.

Ladder leading from well deck to starboard side of poop deck, where broken, to be removed, repaired, and returned to place.

Poop deck.—Rail on port quarter, where broken, to be repaired.

Port after warping chock, where carried away, to be renewed.

Starboard warping chock, where carried away, to be renewed.

Lower block on port derrick topping lift, where damaged, to be repaired.

Winches.—Shaft on port forward cargo winch, forward well deck, found to be bent; to be removed, straightened, and returned to place.

Guard over gears, where broken, to be removed and renewed.

Upon completion of repairs, winch to be tested under steam. All other winches to have packing removed and be repacked, and to receive such other overhauling and slight repairs as may be directed by surveyors.

Main engines.—Main engines to be opened up for examination of journals, cylinders, pistons, valves, etc. All coupling bolts to be removed and shafting tried for truth. Tail shaft to be drawn for examination. Upon completion of repairs, engines to be carefully lined up, and all shafting left in perfect alignment with main engines.

Propeller.—Four propeller blades, where found to be bent and broken, to be renewed.

Holding-down bolts.—All holding-down bolts on main engines, thrusts, and spring bearings to be carefully overhauled, removed, and renewed where broken.

Piping.—All filling, suction, sounding, and vent pipes in connection with vessel's tanks and bilges to be carefully overhauled and repaired or renewed where found to be damaged and upon completion of repairs to be carefully tested and left tight.

Strainers.—Strainers in connection with piping throughout the vessel to be cleaned, repaired, or renewed where found necessary.

Electric-light system.—Electric-light system throughout the vessel to be carefully overhauled and tested; to have all grounds and shorts removed; conduits to be overhauled and repaired or renewed where damaged, and upon completion of repairs to electric-light system entire system to be operated from ship's dynamo to the entire satisfaction and approval of underwriters', surveyors', and owner's representative.

Electric-light engine to be opened up for examination and such repairs made as may be found necessary.

General clause—Interior damage.—All frames, reverse frames, brackets, intercostals, margin plate and angles, center-line girder and angles, floors, vertical stiffeners, clips and tank tops, bulkhead footings, and bounding angles of whatsoever nature where damaged, in way of damaged shell plating, to be removed, faired, and returned to place, faired in place, or renewed as directed by surveyors.

Nos. 3 and 4 holds—Shaft alley.—Plating and angles forming shaft alley where buckled and bent to be removed, faired, and returned to place.

Rivets where sheared and started to be cut out and renewed.

All paint damaged, due to submersion of these holds, to be carefully washed down af er removal of spar ceiling, thoroughly dried out, and given two coats of paint, one coat of priming and one coat of finishing paint.

Upon completion of painting in these holds, spar ceiling to be replaced as originally installed; ceiling damaged in removal to be renewed.

Tank top ceiling, Nos. 3 and 4 holds.—Tank top ceiling in Nos. 3 and 4 holds to be removed; tank tops cleaned down and painted as originally; afterwards tank top ceiling to be replaced as originally.

Testing tanks.—Upon completion of repairs, tanks to be tested in accordance with classification requirements.

Cement.—All tanks to be carefully cleaned out, and damaged or disturbed cement to be removed and renewed as originally installed.

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Paint.—All new and disturbed work to receive two coats of paint, one coat of priming and one coat of finishing paint.

Upon completion of repairs, vessel to be given two coats of paint to the light-load line, one coat of anticorrosive and one coat of antifouling paint, of approved selection.

All work to be performed in a neat and workmanlike manner, subject to the entire satisfaction and approval of owners' representative and underwriters' surveyors.

JAMES E. MORRIS,
G. E. BECKER,
Lloyd's Agency, San Francisco.
WILLIAM H. LOGAN,
FRED. A. GARDNER,
Surveyors to Lloyd's Agency, San Francisco.

EXHIBIT F.

No. 480.]

LLOYD'S AGENCY,
San Francisco, January 17, 1912.

We, Lloyd's agents at the port of San Francisco, do hereby certify that the British steamer *Damara*, of 4,988 tons gross, was built at Glasgow, Scotland, for Glasgow owners, and completed in May, 1910. That said vessel, while on a voyage from this port to the United Kingdom, fully loaded with cargo of barley, stranded near Fort Point at the entrance to this harbor on the 8th day of October, 1910.

Great difficulty was experienced in salving the vessel, but this was finally accomplished, at an expense of $57,052.43, and the vessel was safely placed in dry dock at Hunters Point, San Francisco Bay, in a badly damaged condition on the 19th day of October, 1910.

Upon examination in dry dock the damages sustained were found to be so extensive that she was abandoned by her owners to the underwriters and the vessel sold by us, acting for said English underwriters, in the condition in which she then lay on dry dock, to the Union Iron Works Co., of San Francisco, for the sum of $22,500 on the 10th day of November, 1910, payment in full being made on the 12th day of November, 1910.

We further certify that the insured value of this vessel at the time of stranding was £35,000, on which basis the English underwriters settled total loss with the owners in Glasgow.

We further certify that after purchase the Union Iron Works Co. fully repaired this vessel, the repairs being made under immediate supervision of surveyors to Lloyd's Register of British and Foreign Shipping, and, on completion of the repairs, the vessel was restored to the class held by her at time of stranding, viz, 100 A. 1.

JAMES E. MORRIS,
R. E. BECKER,
Lloyd's Agents.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 657.

INSPECTION OF STEAM VESSELS.

MAY 4, 1912.—Referred to the House Calendar and ordered to be printed.

Mr. ALEXANDER, from the Committee on the Merchant Marine and Fisheries, submitted the following

REPORT.

[To accompany H. R. 24025.]

The Committee on the Merchant Marine and Fisheries, to whom was referred the bill (H. R. 24025) to amend sections 4400 and 4488 of the Revised Statutes of the United States, relating to the inspection of steam vessels, and section 1 of an act approved June 24, 1910, requiring apparatus and operators for radio communication on certain ocean-going steamers, having considered the same, report it to the House with the following amendments:

Amend, by inserting the word "public" after the word "States" in line 1, page 2 of bill; also by inserting the words "and such other life-saving and fire-fighting devices" after the word "them" in line 15 of page 3 and after word "them" in line 10, page 4 of bill; also by striking out the first word "or" in line 18 on page 6 and inserting in lieu thereof the word "and," and by striking out the words "or both" in same line of bill; also by inserting the words "on and after October 1, 1912" after "provided," in line 1, page 7; also by striking out the word and figure "Sec. 4" and the word "act" in line 21 on page 7 and by inserting in lieu of the word "act" the word "section"; with the recommendation that the bill as amended do pass.

The bill amends section 4400 of the Revised Statutes of the United States by striking out of said section the following language:

Provided, however, That when such foreign passenger steamers belong to countries having inspection laws approximating those of the United States, and have unexpired certificates of inspection issued by the proper authorities in the respective countries to which they belong, they shall be subject to no other inspection than necessary to satisfy the local inspectors that the condition of the vessel, her boilers, and life-saving equipments are as stated in the current certificate of inspection; but no such certificate of inspection shall be accepted as evidence of lawful inspection except when presented by steam vessels of other countries which have by their laws accorded to the steam vessels of the United States visiting such countries the same privilege accorded herein to the steam vessels of such countries visiting the United States.

It is further provided that the Secretary of Commerce and Labor may, in his discretion, permit any foreign passenger steamer coming within the provisions of this act whose foreign certificate of inspection shall have expired at sea since last leaving the

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country to which said vessel belongs, or while said vessel shall have been in a port of the United States, to sail upon her regular route without undergoing any further inspection than would have been required had said foreign certificate of inspection been in force: *Provided, however*, That such discretion shall be exercised only with respect of vessels operated upon regularly established lines, and in cases where such foreign passenger steamers will be regularly inspected by the authorities of her home government before her next return to a port of the United States.

The act of August 7, 1882, amending section 4400, extended our laws relating to inspection of steam vessels to all foreign private steam vessels carrying passengers from any port of the United States to any other place or country, and provided for special inspection of foreign steam vessels.

By the act of March 1, 1895, so much of the act of August 7, 1882, as provided for special inspection of foreign steam vessels was repealed.

By the acts of February 15, 1902, and of March 17, 1906, section 4400 was further amended by adding the provisions which are stricken out in the bill reported by the committee.

The effect of these provisions has been to exempt foreign steam vessels from inspection in American ports further than is necessary to satisfy our local inspectors that the condition of the vessels, their boilers, and life-saving equipments are as stated in the current certificate of inspection issued by the proper authorities in the respective countries to which they belong.

In the opinion of the committee there is greater need for the rigid inspection of foreign vessels entering at and clearing from our ports than there is for the inspection of vessels of the United States, in view of the fact that most of our over-sea commerce, both passenger and freight, is carried in foreign ships. The great foreign passenger lines on the north Atlantic, and plying between European ports and our eastern seaboard, are largely dependent on the American traveler for their profitable business.

The necessity for again asserting our right to inspect these ships, and to require them to comply with our laws framed for the greater safety of their passengers and crews has been brought to the attention of Congress by the appalling disaster to the British steamship *Titanic*. In that awful tragedy 1,600 lives were needlessly sacrificed. And yet the life-saving equipment of the *Titanic* complied with the regulations of the British Board of Trade. She was inspected, according to the testimony taken by the Senate investigating committee, by the authorized agent of the board of trade just before starting on her ill-fated voyage, and permitted to sail with full knowledge that she was provided with only enough lifeboats to save one-third of her passengers and crew in the event of disaster to the vessel by fire or shipwreck. And under our law, if the ship had survived the perils of the sea and had entered the port of New York, she would have been permitted to depart without inspection, and her life-saving equipment no better than when she entered, and this under existing law without fault on the part of our inspection service.

It is to remedy this situation, and to make it the clear duty of our inspectors to see that foreign vessels conform to our laws in the regards mentioned, that the committee recommends the amendment of section 4400.

Section 2 of the bill amends section 4488 of the Revised Statutes of the United States, and is named in section 1 of the bill revising section 4400 as a section to the provisions of which all foreign private

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steam vessels carrying passengers to or from any port of the United States shall be subject.

The bill amends section 4488 in several important particulars.

Drags are omitted, as they are no longer regarded with favor as a safety device. Ring buoys, water lights, and ring-buoy lights are added, and the following new clause inserted after the devices specifically mentioned, "and such other life-saving and fire-fighting devices and equipment as will best secure the safety of all persons on board such vessel in case of disaster."

Another, and the most important particular in which the section is amended, is the requirement that vessels navigating the ocean in addition to the other life-saving devices and equipment enumerated, "shall be provided and equipped with a sufficient number of seaworthy life boats to carry and transport at one time every passenger and every member of the crew licensed to be carried on board such vessel," and further, "that the board of supervising inspectors" shall have no discretion whatever with respect to the number of lifeboats on steamers navigating the ocean, such number to be determined solely by the actual capacity of such lifeboats to carry and transport at one time all the passenger and members of the crew on board such vessels.

The section further provides that such vessels shall carry a life preserver for each person allowed to be carried by the certificate of inspection, including passengers and crew, Vessels shall also be equipped with a searchlight of sufficient power to be an efficient aid to safe navigation in the nighttime.

It should not be overlooked that ocean-going vessels must not only be equipped with lifeboats and life preservers enough for all the passengers and crew, but such number of the other life-saving and fire-fighting devices as in the judgment of the board of supervising inspectors will best secure the safety of all persons on board the vessel in case of disaster.

The committee calls attention to the fact that the provision requiring enough lifeboats for all the passengers and crew only applies to ocean-going vessels, and does not apply to steamers navigating the lakes, bays, and sounds of the United States. At the same time the supervising inspectors will have the power to prescribe such number of lifeboats on these vessels if they are thought to be necessary. But in view of the fact that vessels on these waters are never very far offshore, that on the Great Lakes the open season for navigation is usually from April to November, and that floats and life rafts are regarded as an efficient life-saving equipment on these waters, while they are not so regarded in mid-ocean, the committee feel that it is better to lodge in the supervising inspectors the discretion to include them with lifeboats in the complement of life-saving equipment on vessels navigating these waters.

If the *Titanic* had been equipped with life rafts in addition to her lifeboats they would have proven a valuable refuge for her passengers and crew, because the sea was smooth at the time, but they would have been of doubtful value if the wreck had occurred in a storm, with the water ice cold.

The Board of Supervising Inspectors are charged with the duty of determining by rules and regulations the character and equipment of lifeboats. floats, rules, life preservers, ring buoys, searchlights, water

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lights, ring-buoy lights, line-carrying projectiles and the means of propelling them, and of other life-saving and fire-fighting devices and equipment to be used by vessels.

The amended section further provides that it shall be unlawful for vessels coming within the terms of the act to sail from any port of the United States without obtaining from the local inspectors a certificate specifying the number of passengers and crew licensed to be carried, and that if those charged with the control, management, operation, equipment, or navigation of the vessel, knowingly and willfully permit her to depart from any port of the United States without being equipped, as therein provided or without the certificate mentioned, they shall, upon conviction, be fined not less than $1,000, nor more than $5,000, and in addition shall be imprisoned for a term not exceeding 10 years, in the discretion of the court.

Many suggestions have come to the committee through the press and private communications suggesting the kind of lifeboats and davits and other devices for lowering them that should be used, and so with reference to the other devices, but the committee did not think it wise to specify any particular kind of lifeboat or davit or other device that should be used. Many of them are controlled by patents, and we wish to avoid placing it in the power of any manufacturer of any of the devices provided for to practice extortion on the owners of vessels, hence we leave the power lodged in the supervising inspectors to select from all the devices manufactured the best and at the same time protect vessel owners from monopoly prices. An examination of the rules and regulations of our Steamboat-Inspection Service will satisfy the House that our Board of Supervising Inspectors have ably and conscientiously discharged their duty in this regard in the past and that they can be safely intrusted with it in the future.

Formerly the number of lifeboats that a vessel should carry has been determined by the tonnage of the vessel, but under the revised rules of the Board of Supervising Inspectors the number is determined, as it should be, by the number of persons authorized to be carried.

Following the sinking of the steamship *Titanic*, and voicing the universal sentiment that our laws should provide greater safeguards for life at sea, many bills have been introduced in the House and referred to the committee.

Mr. Kindred, of New York, introduced H. R. 23472 to amend section 4400, and section 1 of the bill includes the essential features of said bill.

The committee gave careful consideration to many other bills, among them H. R. 23457, by Mr. Hardwick, of Georgia; H. R. 23459, by Mr. Cline, of Indiana; H. R. 23463, by Mr. Cary, of Wisconsin; H. R. 23466, by Mr. Sulzer, of New York; and H. R. 23569, by Mr. Moore, of Pennsylvania, all of which provide that vessels shall be equipped with enough lifeboats to accommodate the passengers and crew, and much of the phraseology of the amended section and the penalty in part is taken from the bill introduced by Mr. Sulzer, while the water lights and ring-buoy lights were suggested by Mr. Cary's bill.

These lights have been tested by some of the committee and are regarded as a valuable part of the life-saving equipment of vessels. We understand they are used in the Navy, and they are approved by the Board of Supervising Inspectors.

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SECTION 3, WIRELESS SHIP ACT.

The third section of the bill recasts and extends the application of the first section of the act of June 24, 1910, which took effect on July 1, 1911, to require apparatus and operators for radio communication on certain ocean steamers. The other three sections of that act, prescribing compulsory interchange between different systems of radio communication, fixing penalties for the departure of a vessel without efficient wireless equipment and operator, and directing the Secretary of Commerce and Labor to enforce the act are unchanged.

The act of 1910 prescribes that the radio apparatus must cover at least 100 miles, day or night, and this has also been left unchanged. The committee has considered suggestions to increase the range of the apparatus, but has deemed such changes unnecessary. The two highest powered ocean passenger steamers afloat can make but 25 knots an hour, so that 4 hours would be required for them to cover 100 miles, and the ordinary ocean steamer on a call for help would require from 5 to 6 hours to cover the prescribed distance. In all recent disasters where wireless aid has been invoked there have been sufficent steamers within a radius of 100 miles able to reach the spot, had not other causes intervened.

Scope of application.—The present law applies only to ocean-going steamers carrying passengers and carrying 50 or more persons, including passengers and crew. The bill increases the scope of application of the bill in two respects. After July 1, 1912, every ocean steamer with 50 or more persons on board, regardless of whether they are passengers or crew, must be equipped with wireless apparatus and operators. The committee believes that 50 human lives at sea are entitled to the protection afforded by this invention, whether those lives be of passengers or crew. It also believes that the requirement of wireless apparatus on large cargo boats is not only a measure of protection for life and property on board such vessels, but the ability of such vessels to respond to distress calls increases the security of the lives of passengers on board of other ships which may require prompt assistance. This extension of the act accordingly will increase materially the safety of ocean transportation.

There are 20 cargo vessels of the United States with crews of 50 or more men to which this act will be applicable, and within the past few days the installation of wireless apparatus has already begun on 9 of these. There are 114 such German cargo steamers, but of these the larger number never visit ports of the United States. The number of British cargo steamers with crews of 50 or more, visiting ports of the United States, can not be accurately determined because cargo steamers are not as a rule so regularly employed on fixed routes as are passenger steamers. From the best information obtainable the committee is convinced that there are at least 150 such vessels. This feature of the bill, accordingly, will require apparatus for radio communication and operators on about 250 ocean steamers not now subject to the law. To enable the owners of these vessels to equip them properly and to prevent the possibility of extortion on the part of wireless companies, the committee believes that this section of the bill should not apply before July 1, 1913. This will allow ample time to prepare for compliance with the new requirements and is the same method as was adopted in the act of June 24, 1910.

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The bill also extends the requirements of the wireless law to vessels on the Great Lakes carrying 50 or more persons and making voyages of 200 miles or more between ports. Already 34 vessels on the Great Lakes are so equipped and the committee has received strong letters from shipowners on the Lakes urging that the protection afforded by radio communication be extended to the fleets of large vessels on those waters. The committee has complied with these recommendations, although it has not overlooked the fact that the season of navigation on the Lakes is short, the waters crowded so that vessels are, as a rule, in sight of one another, and that the necessity for radio communication is much less on those waters than on the wider stretches of the oceans. The act, however, is not to apply to the Great Lakes until April 1, 1913, the opening of the next season of navigation, so that ample time will be afforded for the necessary preparations. Of course, under this provision of the bill it will be necessary to extend the system of Government inspection to the Great Lakes. The sailing distance from Buffalo to Duluth is 996 miles.

Two or more operators.—The act of June 24, 1910, prescribed that there should be at least one skilled operator in charge of the apparatus on vessels subject to the act. This provision went as far as it was practicable for legislation to go until a corps of skilled operators had been educated at home and abroad. Two operators, of course, are not required ordinarily for the purpose of keeping the apparatus in working order and of sending messages, but they are indispensable for the maintenance of a continuous watch during the entire period when a vessel is being navigated. The maritime nations of the world at the Brussels Conference on Maritime Law, on September 23, 1910, united in the declaration to be found in Article II of that convention, as follows:

> Every master is bound, so far as he can do so without serious danger to his vessel, her crew, and passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost.

The Senate of the United States has ratified that convention, and the bill to carry it into effect (H. R. 23111) is pending before a committee of this House. The Committee on the Merchant Marine and Fisheries knows of no more thorough way to give vitality to this principle than through the requirement in the pending bill that there shall be a constant watch on ships subject to the wireless act over a horizon—so to speak—of at least 100 miles, to insure prompt aid in peril to those on board other ships. The wireless operator is required to sit at his desk with a telephone receiver strapped to his head, and under this strain short watches only can be useful. So far as American vessels are concerned the bill at page 7, lines 11–17, requires the master to maintain such a watch. The Congress of the United States, of course, has no authority to prescribe such a watch at sea on foreign vessels. The committee, however, is hopeful that at the coming International Radiotelegraphic Conference, to be held at London in June, some international provision will be made so that the principle covered in this measure may be generally adopted, if not by a requirement for two operators, by a requirement that at stated intervals of not less than an hour each ship shall listen in on the general ship's wave length for distress or other urgency signals.

To begin examinations at once so that the necessary operators may be available, the bill should pass at an early day, as it will call for

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about 150 additional operators on American ships and about 300 to 350 additional operators on foreign ships.

Auxiliary power.—The present law prescribes that the apparatus shall be "efficient." The power to operate this apparatus is usually supplied by the main electrical power plant of the ship located in or near the ship's engine room. In case of disaster, such as the collision with another ship or with an iceberg, or the stranding of the vessel, of course, the water rushes into the hold and puts out of commission the ship's engine and boiler room and its main power plant. Whether apparatus for radio communication can be deemed efficient if, at the time when it is most needed, the power is lacking to enable it to perform its functions is a question of construction. The committee has deemed it best to remove all doubt on this point by prescribing specifically at page 6, line 25, for an auxiliary power supply, independent of the vessel's main power plant, which will secure effective communication for at least four hours. Some steamers already have this equipment, but the committee deems that all should carry it. Besides auxiliary storage batteries other means of furnishing auxiliary power adequate for the purpose are being worked out by inventors under the stimulus of the several departments of the Government concerned in the general subject of radio communication.

Summary.—Under the third section of the bill the number of vessels under the wireless ship act will be increased to about 800, and by this extension all the ports on the Great Lakes and several additional ports on the seaboard of the United States will be brought within the scope of this legislation. On all of these vessels auxiliary power will be required, and in every case where there is now only one operator two operators must also be supplied. The committee is aware that the legislation is broad in its application and is a marked step in advance of the laws of our own country as well as of other countries, but it believes that the measure will impose no undue hardships and that in a very short time its benefits will be recognized even by those who may be disposed to doubt the advisability of so sweeping a measure. The committee is confirmed in this belief by the recollection that in its earlier stages a few years ago the legislation it recommended was questioned by some of those who have since had the strongest reasons for gratitude at its enactment.

This bill will not be effective unless adequate provision shall be made at a later day for the extension of the present system of examining operators and inspecting apparatus, and the committee takes the occasion offered by its report upon this bill to state that it deems necessary adequate appropriations to carry out such legislation as soon as Congress shall have determined that it desires the legislation to pass.

The section embraces the provisions of H. R. 16803, introduced by Mr. Maguire of Nebraska, requiring vessels equipped with apparatus for radio communication to have such apparatus in charge of two or more skilled operators. This bill was introduced January 4, 1912.

It is unnecessary for the committee to emphasize the necessity for the legislation proposed in this bill. The reasons are fresh in the minds of all. The demand for more stringent laws to protect life at sea is general, both here and in Europe.

While the committee believe this bill if enacted into law will contribute largely to that end, we are not unmindful that disasters at sea

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will occur, accompanied by loss of life, despite all the safeguards that human ingenuity and foresight can provide. With good laws, rigidly enforced, however, such horrors as those attending the sinking of the *Titanic* can and should be prevented.

In the framing of section 3 of the bill the committee is indebted to Hon. E. T. Chamberlain, Commissioner of Navigation, for attending the sessions of the committee and giving them the benefit of his valuable knowledge and experience relating to the subject matter.

The committee is also indebted to Inspector General Uhler for valuable suggestions in connection with other features of the bill.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 660.

IMPORTATION AND MOVEMENT OF PLANTS, FRUITS, AND VEGETABLES.

MAY 6, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SIMMONS, from the Committee on Agriculture, submitted the following

REPORT.

[To accompany H. R. 24119.]

The Committee on Agriculture, having had under consideration the bill (H. R. 24119) to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes, report thereon with the recommendation that it do pass.

EXPLANATION OF THE BILL.

In general, the Federal powers granted in this act relate to the establishment of foreign and domestic quarantine, the issuance of permits, foreign certification, and the distribution to the several State or Territorial officials of exact information in regard to origin, arrival, and destination of importations.

To the several States are left the responsibility of inspection at destination of imported stock and the cleaning up and disinfection of local quarantined districts.

Section 1 provides that "nursery stock" may be imported only after a permit has been taken out and when accompanied by a certificate showing foreign inspection. The issuance of the permit is mandatory when the conditions of the section have been met. The section provides, however, that for scientific or experimental purposes plants may be imported by the Department of Agriculture without the permit. Provision is also made for the importation without certificate of inspection, under proper regulations, from countries where there are no means for such inspection.

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While the issuance of the permit required in this section is mandatory, it nevertheless affords a large protection, in that it gives opportunity for a warning, if necessary, to be sent to the importer before he makes his importation if the goods covered are deemed dangerous, and also opportunity to warn the State official long in advance of the intended importation of stock if the same again are deemed likely to carry danger.

Furthermore, the foreign certification can be made to have distinct value, inasmuch as such certification to be acceptable can be required to be made by proper and accredited foreign officers, and of such character as to give assurance that the stock covered is clean.

Finally, the permit and the foreign certification will act of themselves very largely to prevent the importation of refuse stock by department stores or such as is now shipped in by foreign dealers to be sold at auction, and very much miscellaneous small importations, which have an especial danger from the difficulty of following up and inspecting such sendings.

Section 2. Notification section; requires notification from customs officers, first receivers of stock, person or firm offering it for transportation, and transporting firm or other carrier, the object being to fully advise the Secretary of Agriculture of the arrival and transportation of such stock to destination, information now only partially available. This information is to be transmitted by the department to the proper State officials so that all imported stock can be inspected by the latter. The Department of Agriculture acts merely as a clearing house for information, and the actual inspection of imported stock is left entirely to State officials.

Section 3. Labeling of imported stock as a condition of entry.

Section 4. Labeling of imported stock as a condition of interstate transportation.

Section 5. After due notice and public hearing, makes provision for the inclusion under the foregoing provisions of the act, when necessary, of the plants and plant products excepted in the definition of "nursery stock" as given in section 6. The quarantine sections, 7 and 8, and the subsequent sections of the act apply to all plants and plant products, including these excepted articles.

These excepted articles will normally carry little danger of introducing new insects or diseases, and therefore, to save both unnecessary Federal supervision, extending to thousands of small seed packets and similar importations, and also to avoid placing unnecessary burdens on importers of such articles, the requirements of the first four sections, relating to the permit, notification, and labeling, are not to be placed on these articles except when some real danger develops.

Section 6 defines "nursery stock" as used in this act.

Section 7. After due notice and public hearing, provides for quarantining foreign districts to exclude plants or plant products which may convey fruit diseases or insect pests new to or not theretofore widely prevalent or distributed within and throughout the United States. Excludes such articles, which are to be specifically enumerated, until quarantine is withdrawn, even though such articles are offered for entry accompanied by a foreign certificate. Provides that, in its application to the white-pine blister rust, the potato wart, and the Mediterranean fruit fly, the quarantine provisions of his section shall become applicable upon the enactment of the bill.

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In the quarantine provisions of this section the particular plant conveying the danger is excluded, but no unnecessary restrictions are to be placed upon other plants not affected by such quarantine. The particular wording adopted in reference to such quarantine, namely, "diseases or insect pests new to or not theretofore widely prevalent or distributed within and throughout the United States," will enable the Department of Agriculture to declare a quarantine against any foreign pest whatsoever which should be legitimately subject to quarantine—in other words, to any pest which has not already been distributed and established throughout the United States—so that there would be no territory unaffected to which Federal quarantine could properly apply.

Section 8. After due notice and public hearing, provides for domestic quarantine for any dangerous plant disease or insect infestation new to or not theretofore widely prevalent or distributed within and throughout the United States. Notice of such quarantine is to be given to common carriers and published in newspapers. Plants or plant products so quarantined in relation to interstate shipments not to be offered for shipment, received for transportation, nor moved.

The particular wording relating to domestic quarantine in this section has the same breadth of application as has the similar wording in section 7 in relation to foreign quarantine.

Section 9 provides for the making of rules and regulations for the carrying out of the purposes of the act.

Section 10. Penalties.

Section 11 defines "territory" as used in the act.

Section 12 provides for the establishment of a definite Federal horticultural board in the Department of Agriculture to carry out the provisions of the act.

Section 13. Appropriation.

Section 14. Date when the act becomes effective.

CONDITIONS WHICH CALL FOR THIS LEGISLATION.

The United States is the only great power without protection from the importation of insect-infested or diseased plant stock.

Referring to European powers only, Austria-Hungary, France, Germany, Holland, Switzerland, and Turkey prohibit absolutely the entry from the United States of all nursery stock, and admit fruit only when the most rigid examination shows freedom from infestation; and most of the others have very strict quarantine and inspection laws, and the same is true of the important British and other colonial possessions.

The United States thus becomes a sort of "dumping ground" for refuse stock. Diseased live stock may be, and are, excluded by law, but diseased and insect-infested plants have no bar against introduction.

More than half of the important insect pests of fruits and farm crops are of foreign origin, and these now occasion a tax of nearly half a billion dollars annually. A properly enforced quarantine and inspection law in the past would have excluded many, if not most, of these insect enemies and also many plant diseases.

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While, as just indicated, most of the important seriously injurious insects and plant diseases, which are now levying an enormous yearly tax on agricultural productions, have been introduced from foreign countries, there are still many other insect pests and plant diseases which may be excluded. There are important orchard and fruit pests in Europe and Asia, the entry of which can be guarded against. There is also just now especial danger from introductions from Asia, where conditions are little known and where pests are very apt to be new and unusually destructive.

An illustration of this is seen in the San Jose scale, which was introduced into this country from north China, and has been carried into every State in the Union on nursery stock. This pest has already cost the orchardists of this country $50,000,000, and is adding to this sum at the rate of $5,000,000 each year. This $5,000,000 annual charge comes from the actual cost of spraying operations, which are absolutely necessary to keep the trees alive and productive, and from the shrinkage in quantity and value of the fruit yield.

The alfalfa leaf weevil is another of the recently introduced foreign insect pests, and its ravages in the great alfalfa regions of Utah are now well known, and there are no means of preventing its spreading ultimately throughout all the great alfalfa regions of the Pacific coast and the Mississippi Valley.

Still another recently introduced pest is the European elm-bark beetle which has become established in Massachusetts, and is the chief agent in the destruction of the historic elms of Cambridge. The moribund or dead trunks of these splendid old trees are now being chopped down and removed at a cost merely for the removal of upward of $30 per tree. This new elm pest may in the end prove almost as serious an enemy to the elms in this country as the chesnut disease has proved to chestnut forests in the eastern United States, and this chestnut disease is also of comparatively recent foreign origin. Many other illustrations could be given, but these are perhaps sufficient to illustrate the type of dangers which should at once be guarded against.

As already indicated, much could have been saved to the agricultural and natural forest resources of this country if legislation similar to this had been early enacted. Many of the plant diseases and insect enemies of the Old World now established in this country could undoubtedly have been excluded, and this would have given this country a tremendous advantage for a long period in augmenting the quantity produced and lessening the cost of production. The past can not be altogether remedied, but the future can be safeguarded, and this act will go a long way toward accomplishing this end.

The enactment of this legislation is especially urgent at this time to exclude several immediate dangers of the gravest character, as well as to afford general protection in the future against all important plant diseases and insect pests.

The so-called Mediterranean fruit fly has recently become established in the Hawaiian Islands, and unless quarantined against is certain to be brought into this country from those islands or from other quarters of the world where it has gained foothold. It is a more serious fruit pest than any now occurring on this continent. Its larvæ, or maggots, infest all sorts of fruits and many vegetables, and the presence of these in the fruit can not be determined except

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by cutting the fruit open. Its introduction would be most disastrous to the citrous and deciduous fruit ranches of the Pacific coast and, in fact, to all our fruit-growing interests.

Another very grave danger at this time is the likelihood of the introduction of the potato wart with imported potatoes. The short crop of last year has already led to enormous importations of foreign potatoes, and these importations have come in many instances from districts where this dreaded disease is known to exist. We are, for example, now receiving quantities of potatoes from Newfoundland, where the potato disease is so firmly established that her neighbor, Canada, has strictly quarantined against all potatoes from this island, with the result that we are now getting all the surplus. It is significant also that Canada is now considering the establishment of quarantine against potatoes from the United States because this country is allowing the importation of diseased potatoes from Newfoundland. The establishment of this potato disease in the great potato-growing regions of the United States would result in losses almost beyond computation. It is a soil disease, and once in the soil it remains for a period of from 8 to 10 years, and puts an effectual check on potato production, invading and destroying the potato tubers.

Another grave danger is the likelihood of the establishment in this country of the white-pine blister rust, which has caused enormous losses in certain districts in Europe, particularly to seedling pine stock. This disease has during the last few years been imported on seedling pines into many of our States. Earnest effort has been made to destroy all such infested shipments, and it is hoped that this work has been successful. If this disease becomes established in this country it will result in enormous losses to our pine forests. In the case of this pine rust, most of the infested seedlings have come from a single nursery and district in Germany—a district which is more or less locally quarantined against, with the natural result of making us the recipients of its diseased products. A law under which such districts and such products can be absolutely quarantined against is imperatively needed.

The danger which led to the first attempt to get this legislation is still in existence—that is, the likelihood of the establishment throughout the United States of the gypsy and brown-tail moths with nursery stock imported from Europe. During the last few years such infested material has been carried to no less than 23 different States. In 1909, 7,000 nests, containing nearly 3,000,000 larvæ, were found in shipments into New York State—seed material enough to infest the whole United States within a few years; and, as already noted, such infested shipments have been sent to many other States, extending from the Atlantic seaboard to the Rocky Mountains. So far as possible, this imported stock has been examined and the infesting larvæ removed and destroyed by State authorities or, where these were not available, by employees of the Bureau of Entomology of the Department of Agriculture. It is by no means certain, however, that all infested material has been inspected, and the insect may now be established at remote interior points.

It is scarcely necessary to comment on the danger to this country from the careless introduction and wide distribution of these two orchard and forest pests. In a limited district in New England more than a million dollars a year has been spent for a long period

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in a mere effort to control these two insects, and the General Government is now appropriating $300,000 annually to endeavor to clear them from the border of the main highways and thus check their spread. These expenditures do not take into account the actual damage done, but they do serve as a measure of the danger to the whole country from the recent distribution of these two insects on imported nursery stock.

In this bill the quarantine provisions are made immediately applicable to three of these dangers, namely, the Mediterranean fruit fly, the potato wart, and the white-pine blister rust.

With the exception of importing nurserymen there has been practically universal demand for this legislation. The horticultural societies of many States have demanded it and have come solidly to its support. Resolutions favoring this legislation have been passed by numerous bodies of this character, and the horticultural and entomological officials of practically every State in the Union have long been urging its enactment.

The opposition to this legislation in the past has been on the part of importing nurserymen, and through these, of the National Association of Nurserymen, the nursery interests fearing that such a law would put unnecessary burdens and restrictions on their business. The educational work of the last few years has demonstrated to most of these nurserymen that their fears have been groundless, and nursery associations of whole States have given emphatic support to this legislation.

This bill has been discussed very fully with the committee on legislation of the National Association of Nurserymen, and this committee, for this National Nurserymen's Association, has accepted the bill as satisfactory to them and as desirable legislation. There is, therefore, now, so far as we know, no antagonism anywhere to this measure, and it has practically unanimous support from all the vast fruit-growing, forest, and allied interests in this country.

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62D CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 661.

RAILWAY THROUGH CERTAIN PUBLIC LANDS.

MAY 6, 1912.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. STEPHENS of Texas, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 23837.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 23837) to authorize the Clinton & Oklahoma Western Railway Co. to construct and operate a railway through certain public lands, and for other purposes, having duly considered the same, recommends that the bill be amended and that as amended that it do pass.

Amend as follows:

Page 1, line 8, after the word "lands," insert "reserved for Indian school purposes."

Page 2, line 3, after the word "way," strike out the word "fifty" and insert in lieu thereof the words "one hundred."

Page 2, line 7, after the word "roadbed," insert the words "and sidetracks."

Page 2, line 7, after the word "hundred," insert the words "and fifty."

Page 2, line 21, after the word "the," insert the word "construction."

This bill is amended as desired by the Secretary of the Interior and as amended has his approval, as shown by the following letters from the Secretary:

DEPARTMENT OF THE INTERIOR,
Washington, May 2, 1912.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs, House of Representatives.

SIR: I have the honor to acknowledge receipt, by your reference, of a copy of H. R. 23837, entitled "A bill to authorize the Clinton & Oklahoma Western Railway Co. to construct and operate a railway through certain public lands, and for other purposes."

In response, I have the honor to inform you that this department has no objection to the enactment of the proposed legislation into law, provided it is amended so as to require the company to comply with such rules and regulations as the Secretary of the Interior may prescribe with regard to the construction as well as maintenance and operation of the road in question. To effect this the department suggests that the

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bill be amended by the insertion in line 21 of page 2, after the word "the," of word "construction," so that the proviso in its amended form shall read as follow

"*And provided further*, That the said railway company shall comply with such o regulations and conditions in the construction, maintenance, and operation of s road as may from time to time be prescribed by the Secretary of the Interior."

If the bill be amended as suggested, the department will interpose no objection its enactment into law.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary

DEPARTMENT OF THE INTERIOR,
Washington, May 6, 1912.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs, House of Representatives.

SIR: Supplementing my report dated May 2, 1912, on H. R. No. 23837, entitl "A bill to authorize the Clinton & Oklahoma Western Railway Co. to construct a operate a railway through certain public lands, and for other purposes," I have t honor to inform you that the department is now in receipt of a letter dated May 1912, from Hon. Dick T. Morgan, who introduced the bill above mentioned, sayin that he has received a telegram from Mr. T. J. Nance, of Clinton, Okla., president the Clinton & Oklahoma Western Railway Co., requesting that the bill be amende as follows:

"Amend line 3, section 2, by striking out 'fifty' and insert 'one hundred.'

"Amend line 7, section 2, by striking out 'one hundred' and insert 'one hundre and fifty'; and also insert the words 'and side tracks' after the word 'roadbed' i line 7."

Mr. Morgan has requested this department to advise your committee whether i has any objection to the bill being amended as proposed by Mr. Nance.

The department has given careful consideration to the proposed amendments and has no objections to offer thereto.

It is recommended that upon request from Mr. Morgan, section 2 of the bill be amended so as to read as follows:

"SEC. 2. That said corporation is authorized to occupy and use for all purposes of railway, telegraph, and telephone lines, and for no other purpose, a right of way one hundred feet in width through said public lands, reserved for Indian school purposes, with the right to use such additional ground where cuts and fills may be necessary for the construction and maintenance of the roadbed and side tracks, not exceeding one hundred and fifty feet in width, or as much thereof as may be included in said cut or fill * * *."

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

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